MISSISSIPPI CODE 1972
Annotated

2023 ADVANCE CODE SERVICE

Pamphlet Number 1
January 2023

This pamphlet updates the 2022 Cumulative Supplement.

Contains statutory changes made during the 2022 Regular and 1st Extraordinary Sessions.

Prepared by the Editorial Staff
of the Publisher

LexisNexis

PREFACE

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Southern Reporter, 3rd Series
United States Supreme Court Reports
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American Law Reports, 6th Series
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PREFACE

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January 2023 LEXISNEXIS

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ISBN 978-0-3271-1786-5

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(Pub. 44620)

THE CONSTITUTION OF THE STATE OF MISSISSIPPI

ARTICLE 3.

BILL OF RIGHTS.

§ 23. Searches and seizures.

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ANALYSIS

2. Searches and seizures — In general.
4. — — Expectation of privacy, searches and seizures.
13. Search warrants — In general.
16. — — Showing of probable cause, search warrants

2. Searches and seizures — In general.

4. — — Expectation of privacy, searches and seizures.

Although defendant argued that the officers' use of a ladder to look into a storage unit he was leasing constituted an unlawful search, under the plain error doctrine, his argument fell short since the record revealed no obvious error. In part, defendant did not have a reasonable expectation of privacy in the contents of the unit as seen by the officers from a ladder. Fisher v. State, — So. 3d —, 2022 Miss. LEXIS 289 (Miss. Nov. 17, 2022).

13. Search warrants — In general.

16. — — Showing of probable cause, search warrants

There was a substantial basis for the magistrate's finding of probable cause; the victim's daughter received a text message from her that was not typical, two attempts had been made by officers to make contact with the victim, but they were unsuccessful, a witness saw the front seat of defendant's car covered in blood, and an officer received a phone call from a woman claiming to be the victim after defendant went to find a female to make some calls for him. Bowman v. State, — So. 3d —, 2022 Miss. App. LEXIS 395 (Miss. Ct. App. Nov. 1, 2022).

§ 26. Rights of accused; state grand jury proceedings.

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105. Right to be present at trial — In general.
107. — — Waiver, right to be present at trial.
108. Confrontation of witnesses — In general.
120. — — Examination of witnesses generally, confrontation of witnesses.
124. Right of accused to be heard.

105. Right to be present at trial — In general.

107. — — Waiver, right to be present at trial.

In a case in which defendant was tried in absentia and convicted of possession of methamphetamine, the trial court did not abuse its discretion in denying defendant's request for a continuance after concluding that he waived his right to be

present at trial because he was arraigned and appeared before an open court; the trial court notified him of his October 8, 2020, trial date; he was released on bail one day before trial; the trial court was permitted to find that defendant's absence was voluntary; and defendant did not assert at trial or on appeal any reason for failing to appear. Blount v. State, — So. 3d —, 2022 Miss. App. LEXIS 402 (Miss. Ct. App. Nov. 8, 2022).

108. Confrontation of witnesses — In general.

120. — — Examination of witnesses generally, confrontation of witnesses.

Record contained ample evidence demonstrating the doctor's knowledge about the preliminary postmortem report, other reports, and case materials, which supported her final, independent report that she authored and certified; thus, the doctor plainly had a sufficient degree of involvement in preparing her own report to satisfy the Confrontation Clause concerns in this case. Bowman v. State, — So. 3d —, 2022 Miss. App. LEXIS 395 (Miss. Ct. App. Nov. 1, 2022).

124. Right of accused to be heard.

Failure of the trial court to advise defendant of his right to testify was not reversible error because he was represented by counsel throughout the proceeding and the record was silent as to whether he desired to testify or knew of his right to testify. Fisher v. State, — So. 3d —, 2022 Miss. LEXIS 289 (Miss. Nov. 17, 2022).

TITLE 1.

LAWS AND STATUTES

CHAPTER 3.

CONSTRUCTION OF STATUTES

§ 1-3-27. Minor.

JUDICIAL DECISIONS

1. In general.

Former employer was not entitled to a TRO based on a former employee's violation of a noncompetition contract because the contract was unenforceable as the employee was a minor, and the contract did not fall under the Miss. Code Ann. § 93-19-13 as it affected the employee's right to work, not her personal property. Watercolor Salon LLC v. Hixon, — So. 3d —, 2022 Miss. LEXIS 302 (Miss. Dec. 1, 2022).

TITLE 9.

COURTS

CHAPTER 1.

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GENERAL PROVISIONS

§ 9-1-17. Supreme Court, circuit, chancery and county courts and Court of Appeals may punish for contempt and refer certain persons for placement in restitution, house arrest or restorative justice center or program.

JUDICIAL DECISIONS

4. Rights of defendant.

Because one of the attorneys did not contact the court prior to the final hearing to inform the court he would not attend, his actions, intentions, or reasons, were not known by the court and, thus, constituted constructive criminal contempt. Therefore, the trial court was required to provide him with the procedural due process safeguards including a specification of charges, notice, and a hearing. Seals v. Stanton, — So. 3d —, 2022 Miss. LEXIS 237 (Miss. Sept. 22, 2022).

§ 9-1-36. Office allowance for circuit judges, chancellors and certain staff; procedure to employ certain staff members; title to tangible property; reports; adoption of rules and regulations.

JUDICIAL DECISIONS

1. Appointment.

Petition for writ of prohibition challenging the legality of a circuit court judge's order appointing and setting salary for a deputy court administrator was denied because authorization from the other circuit judges in the district was not a prerequisite for her entry of that order, and the order was appropriate and lawful; the Administrative Office of Courts was the correct entity from which the judge should have sought direction because she needed its approval, which she received. In re McClure, 347 So. 3d 183, 2022 Miss. LEXIS 248 (Miss. 2022).

CHAPTER 17.

COURT ADMINISTRATORS

§ 9-17-1. Establishment of office; appointment and compensation of court administrator.

JUDICIAL DECISIONS

1. In general.

Petition for writ of prohibition challenging the legality of a circuit court judge's order appointing and setting salary for a deputy court administrator was denied because authorization from the other circuit judges in the district was not a prerequisite for her entry of that order, and the order was appropriate and lawful; the Administrative Office of Courts was the correct entity from which the judge should have sought direction because she needed its approval, which she received. In re McClure, 347 So. 3d 183, 2022 Miss. LEXIS 248 (Miss. 2022).

CHAPTER 21.

ADMINISTRATIVE OFFICE OF COURTS

CREATION AND DUTIES OF ADMINISTRATIVE OFFICE OF COURTS

§ 9-21-13. Director to coordinate functions and duties of administrative personnel; expenditure of state monies.

JUDICIAL DECISIONS

1. Appointment.

Petition for writ of prohibition challenging the legality of a circuit court judge's order appointing and setting salary for a deputy court administrator was denied because authorization from the other circuit judges in the district was not a prerequisite for her entry of that order, and the order was appropriate and lawful; the Administrative Office of Courts was the correct entity from which the judge should have sought direction because she needed its approval, which she received. In re McClure, 347 So. 3d 183, 2022 Miss. LEXIS 248 (Miss. 2022).

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IMMUNITY OF STATE AND POLITICAL SUBDIVISIONS FROM LIABILITY AND SUIT FOR TORTS AND TORTS OF EMPLOYEES

§ 11-46-9. Exemption of governmental entity from liability on claims based on specified circumstances.

JUDICIAL DECISIONS

ANALYSIS

1. In general.
8. Police or fire protection.

1. In general.

Sufficient evidence supported the circuit court's determination that the driver's own negligence in failing to exercise vigilant caution and reduce his speed as he drove through the work on Old River Road constituted the sole proximate cause of his accident. Simmons v. Jackson County, — So. 3d —, 2022 Miss. App. LEXIS 418 (Miss. Ct. App. May 3, 2022).

8. Police or fire protection.

In a police pursuit case, a judgment was properly entered in the city's favor as plaintiffs failed to establish that the city police officer acted with reckless disregard for their safety and well-being because the length of the pursuit was short both in time and distance (approximately 50 seconds and 1/2 mile); the character of the neighborhood was commercial; the roadway was well paved and wide with divided lanes; vehicular traffic was relatively light; the officer was proceeding with emergency lights and sirens; no departmental policy precluded a pursuit; and the officer's speed was not excessive in light of the speed limit; thus, the city was entitled to police-protection immunity under the Mississippi Tort Claims Act. Tennesen v. City of Hattiesburg, — So. 3d —, 2022 Miss. App. LEXIS 403 (Miss. Ct. App. Nov. 8, 2022).

§ 11-46-13. Jurisdiction; appeals; venue.

JUDICIAL DECISIONS

2. Venue.

Because the Mississippi Tort Claims Act was plain, unambiguous, and provided mandatory language requiring venue to be in a place where the administrative offices of a political subdivision are located, the county where this suit was filed was an impermissible venue and warranted reversal of the denial of the motion to transfer venue. Jones Cnty. v. Est. of Bright, — So. 3d —, 2022 Miss. LEXIS 287 (Miss. Nov. 17, 2022).

CHAPTER 51.

APPEALS

§ 11-51-75. Appeal to circuit court from decision of a local governing authority.

JUDICIAL DECISIONS

10. Proceedings on appeal.

Requirement that a petitioner in a proceeding before a local governing authority be named in a notice of appeal from the authority's decision under the statute was procedural, not jurisdictional; the omission of a petitioner's name from a timely notice of appeal was ground only for such action as the circuit court deemed appropriate, which may include dismissal of the appeal, and therefore, the circuit court had jurisdiction to take action including allowing the filing of an amended notice of appeal that named the required party as an appellee. Longo v. City of Waveland, — So. 3d —, 2022 Miss. LEXIS 264 (Miss. Oct. 20, 2022).

CHAPTER 55.

LITIGATION ACCOUNTABILITY ACT OF 1988

§ 11-55-1. Title.

JUDICIAL DECISIONS

4. Attorney's fees.

In post-divorce proceedings where the ex-wife filed a petition for modification because her ex-husband did not obtain employment or provide her formal notice of that fact, the chancellor did not err by awarding child support retroactive. The chancellor erred by awarding the ex-wife attorney's fees because there was no evidence or finding that she was unable to pay her attorney's fees; nor did the ex-husband take any action that would have justified an award of attorney's fees under the Litigation Accountability Act, Miss. Code Ann. § 11-55-1 to -15, or Miss. R. Civ. P. 11. Ponder v. Ponder, 349 So. 3d 212, 2022 Miss. App. LEXIS 372 (Miss. Ct. App. 2022).

TITLE 15.

LIMITATIONS OF ACTIONS AND PREVENTION OF FRAUDS

CHAPTER 1.

LIMITATION OF ACTIONS

§ 15-1-49. Limitations applicable to actions not otherwise specifically provided for.

JUDICIAL DECISIONS

ANALYSIS

2. In general.
4. —Applicability.
27. Running of limitation period, generally.
28. — Accrual of cause of action; miscellaneous.

2. In general.

4. —Applicability.

If the parties familiar with the nuances of the case represented that the general three-year statute of limitations applied, there was no plain error in the circuit court's failure to discern the applicability of the Uniform Commercial Code's statute of limitations for negotiable instruments; a former employee did not not demonstrate that the circuit court deviated from any legal rule or that the outcome of the case was prejudiced. Rhea v. Career Gen. Agency, Inc., — So. 3d —, 2022 Miss. App. LEXIS 451 (Miss. Ct. App. Dec. 6, 2022).

27. Running of limitation period, generally.

Circuit court's denial of a former's employee's motion for reconsideration was not an abuse of discretion because neither the doctrine of continuing tort nor equitable estoppel applied to extend the statute of limitations in the action. Rhea v. Career Gen. Agency, Inc., — So. 3d —, 2022 Miss. App. LEXIS 451 (Miss. Ct. App. Dec. 6, 2022).

28. — Accrual of cause of action; miscellaneous.

Workers' compensation benefits claimant's causes of action against a claims handler were barred by the three-year statute of limitations because the causes of action did not stem from a denial of workers' compensation benefits, but rather form the claims handler's failure to timely respond to a request for surgery that allegedly caused the claimant to become a quadriplegic. Once the surgery was approved, any claim for delay had accrued, and the claimant had three years to file suit, but did not timely file the suit. Keys v. Rehab., — So. 3d —, 2022 Miss. App. LEXIS 393 (Miss. Ct. App. Nov. 1, 2022).

TITLE 19.
COUNTIES AND COUNTY OFFICERS

Chapter 9. Finance and Taxation

CHAPTER 9.
FINANCE AND TAXATION

Uniform System for Issuance of County Bonds

Sec.
19-9-5. Limitation of indebtedness.

UNIFORM SYSTEM FOR ISSUANCE OF COUNTY BONDS

§ 19-9-5. Limitation of indebtedness.

No county shall hereafter issue bonds secured by a pledge of its full faith and credit for the purposes authorized by law in an amount which, when added to the then outstanding bonds of such county, shall exceed either (a) fifteen percent (15%) of the assessed value of the taxable property within such county according to the last completed assessment for taxation, or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater.

However, any county in the state which shall have experienced washed-out or collapsed bridges on the public roads of the county for any cause or reason may hereafter issue bonds for bridge purposes as now authorized by law in an amount which, when added to the then outstanding general obligation bonds of such county, shall not exceed either (a) twenty percent (20%) of the assessed value of the taxable property within such county according to the last completed assessment for taxation or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater.

Provided further, in computing such indebtedness, there may be deducted all bonds or other evidences of indebtedness heretofore or hereafter issued, for the construction of hospitals, ports or other capital improvements which are payable primarily from the net revenue to be generated from such hospital, port or other capital improvement, which revenue shall be pledged to the retirement of such bonds or other evidences of indebtedness, together with the full faith and credit of the county. However, in no case shall any county contract any indebtedness payable, in whole or in part, from proceeds of ad valorem taxes which, when added to all of the outstanding general obligation indebtedness, both bonded and floating, shall exceed either (a) twenty percent (20%) of the assessed value of all taxable property within such county according to the last completed assessment for taxation, or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September

30, 1984, whichever is greater. Nothing herein contained shall be construed to apply to contract obligations in any form heretofore or hereafter incurred by any county which are subject to annual appropriations therefor, or to bonds heretofore or hereafter issued by any county for school purposes, or to bonds issued by any county under the provisions of Sections 57-1-1 through 57-1-51, or to any indebtedness incurred under Section 55-23-8, or to bonds issued under Section 57-75-37 or to any other indebtedness incurred under Section 57-75-37(4) or Section 57-75-37(5).

HISTORY: Codes, 1942, § 2926-03; Laws, 1932, ch. 235; Laws, 1950, ch. 241, § 3; Laws, 1962, ch. 245, § 1; Laws, 1974, ch. 495; Laws, 1982, ch. 347, § 1; Laws, 1985, ch. 476, § 1; Laws, 1987, ch. 424, § 1; Laws, 1989, ch. 499, § 2; Laws, 1992, ch. 499 § 2; Laws, 1995, ch. 526, § 1; Laws, 1996, ch. 419, § 1; Laws, 2001, ch. 602, § 11; Laws, 2005, ch. 315, § 11; Laws, 2016, 1st Ex Sess, ch. 1, § 19, eff from and after passage (approved Feb. 8, 2016); Laws, 2022, 1st Ex. Sess., ch. 1, § 13, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, in the last paragraph, substituted "incurred under Section 57-75-37(4) or Section 57-75-37(5)" for "incurred under 57-75-37(4)" at the end.

TITLE 23.
ELECTIONS

Chapter 15. Mississippi Election Code

CHAPTER 15.
MISSISSIPPI ELECTION CODE

Article 15. Voting Systems.

ARTICLE 15.
VOTING SYSTEMS.

Subarticle F. Mississippi Voting Modernization Act

SUBARTICLE F.
MISSISSIPPI VOTING MODERNIZATION ACT

Editor's Notes — The heading for Subarticle F of Article 15, which includes Sections 23-15-533 through 23-15-533.3, is set out above to correct the heading as it appeared in the 2022 supplement to Volume 6A.

TITLE 27.

TAXATION AND FINANCE

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Chapter 65. Sales Tax.....27-65-1

CHAPTER 7.

INCOME TAX AND WITHHOLDING

Article 1. Income Tax.....27-7-1

ARTICLE 1.

INCOME TAX.

Sec.
27-7-22.45. Income tax credit for qualified flat-rolled aluminum production facilities, biocarbon production facilities, certain other industrial facilities, or associated port improvement projects.

§ 27-7-22.45. Income tax credit for qualified flat-rolled aluminum production facilities, biocarbon production facilities, certain other industrial facilities, or associated port improvement projects.

(1) As used in this section,

(a) "Affiliated enterprise" or an "affiliate" shall have the meaning ascribed to such term in Section 57-75-5(k)(ii);

(b) "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

(c) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxxi); and

(d) "Qualified business or industry" shall mean any company that has been certified by the Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxxi), or any other company which becomes subject to the tax levied by this chapter because it is an affiliate of the company that has been certified by the Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxxi).

(2) Each qualified business or industry shall be allowed an annual credit, for a period of fifteen (15) successive years, against the tax imposed by this chapter upon such qualified business or industry in each such year, in an annual amount equal to the amount of the qualified business's or industry's tax imposed by this chapter for each such year during the fifteen (15) year period on income derived thereby from any project, as defined by Section 57-75-5(f)(xxxi).

(3) The tax credit authorized by this section may be utilized by any qualified business or industry and by any affiliates thereof that file a combined tax return for the tax imposed by this chapter. The credit shall not apply to offset tax on income derived from activities subject to Mississippi income tax prior to certification of the project.

(4) A qualified business or industry may elect the date upon which the fifteen (15) year period will begin; however, the date may not be later than twenty-four (24) months after the date the qualified business or industry begins commercial production of the project or such earlier date prescribed by a definitive written agreement between the authority and the qualified business or industry and/or an affiliate thereof.

(5) In the event that the annual number of full-time jobs maintained or caused to be maintained by the qualified business or industry and/or any affiliate thereof falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the qualified business or industry and/or any affiliate thereof for one or more years, the annual tax credit granted by this section may be reduced or suspended by the authority until the first tax year during which the annual number of full-time jobs maintained or caused to be maintained by the qualified business or industry and/or any affiliate thereof reaches the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the qualified business or industry and/or any affiliate thereof.

(6) A qualified business or industry that utilizes the annual tax credits authorized by this section shall not be eligible for the credits authorized in Sections 57-73-21 through 57-73-29.

(7) A qualified business or industry shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for income tax imposed by this chapter for any year for which it files a Mississippi income tax return. The qualified business or industry shall be entitled to continue to utilize such single sales apportionment factor notwithstanding a suspension of the income tax credit pursuant to subsection (5) of this section. In no event shall a qualified business or industry be entitled to utilize a single sales apportionment factor for purposes of calculating its liability for income tax imposed by this chapter on any income derived from any operations or activities thereof subject to tax liability imposed by this chapter prior to January 1, 2023, except to the extent that the qualified business or industry is entitled to utilize a single sales apportionment factor in the calculation of its liability for income tax on income derived from any operations or activities thereof subject to tax liability imposed by this chapter prior to January 1, 2023, pursuant to any other section of law or regulation duly adopted by the department.

(8) The Mississippi Development Authority may promulgate rules and regulations necessary to administer the provisions of this section.

HISTORY: Laws, 2022, 1st Ex. Sess., ch. 1, § 15, eff from and after passage (approved November 17, 2022).

CHAPTER 13.
CORPORATION FRANCHISE TAX

Sec.
27-13-5. Tax on domestic corporations [Repealed effective January 1, 2028].
27-13-7. Tax on foreign corporations [Repealed effective January 1, 2028].

§ 27-13-5. Tax on domestic corporations [Repealed effective January 1, 2028].

(1)(a) **Franchise tax levy.** Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, to be paid and collected as hereinafter provided, a franchise or excise tax upon every corporation, association or joint-stock company or partnership treated as a corporation under the income tax laws or regulations, organized or created for pecuniary gain, having privileges not possessed by individuals, and having authorized capital stock now existing in this state, or hereafter organized, created or established, under and by virtue of the laws of the State of Mississippi, equal to:

(i) For tax years beginning before January 1, 2018, Two Dollars and Fifty Cents ($2.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ii) For tax years beginning on or after January 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents ($2.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iii) For tax years beginning on or after January 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five Cents ($2.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iv) For tax years beginning on or after January 1, 2020, but before January 1, 2021, Two Dollars ($2.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(v) For tax years beginning on or after January 1, 2021, but before January 1, 2022, One Dollar and Seventy-five Cents ($1.75) for each One

Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vi) For tax years beginning on or after January 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents ($1.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vii) For tax years beginning on or after January 1, 2023, but before January 1, 2024, One Dollar and Twenty-five Cents ($1.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(viii) For tax years beginning on or after January 1, 2024, but before January 1, 2025, One Dollar ($1.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ix) For tax years beginning on or after January 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(x) For tax years beginning on or after January 1, 2026, but before January 1, 2027, Fifty Cents (50¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(xi) For tax years beginning on or after January 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(b) In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars ($25.00).

(c) It is the purpose of this section to require the payment to the State of Mississippi of this tax for the right granted by the laws of this state to

exist as such organization, and to enjoy, under the protection of the laws of this state, the powers, rights, privileges and immunities derived from the state by the form of such existence.

(2) **Annual report of domestic corporations.** Each domestic corporation shall file an annual report as required by the provisions of Section 79-4-16.22.

(3)(a) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; however, the fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(b)(i) As used in this paragraph:

1. "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

2. "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix); and

3. "Enterprise" shall mean the corporation authorized for the project pursuant to Section 57-75-5(f)(xxix).

(ii) The term of the franchise tax fee-in-lieu agreement negotiated under this subsection and authorized by Section 57-75-5(j), between the authority and the enterprise for the project shall not exceed twenty-five (25) years. The franchise tax fee-in-lieu agreement shall apply only to new franchise tax liability attributable to the project, and shall not apply to any existing franchise tax liability of the enterprise in connection with any current operations in this state.

(iii) In the event that the annual number of full-time jobs maintained by the enterprise falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise for two (2) consecutive years, the franchise tax fee-in-lieu for the project shall be suspended until the first tax year during which the annual number of full-time jobs maintained by the enterprise reaches the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise.

(iv) The enterprise shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax imposed by this chapter which is attributable to the project for any year for which it files a Mississippi franchise tax return. The enterprise shall be entitled to continue to utilize such single sales apportionment factor notwithstanding a suspension of the franchise tax fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

(c) As used in this paragraph (c):

(i) "Affiliated enterprise" or an "affiliate" shall have the meaning ascribed to such term in Section 57-75-5(k)(ii);

(ii) "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

(iii) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxxi); and

(iv) "Enterprise" shall mean the corporation authorized for a particular project pursuant to Section 57-75-5(f)(xxxi), or any corporation which becomes subject to the tax levied by this section because it is an affiliate of the corporation or other enterprise authorized for a particular project pursuant to Section 57-75-5(f)(xxxi).

(v) The term of the franchise tax fee-in-lieu agreement negotiated under this subsection and authorized by Section 57-75-5(j), between the authority and the enterprise shall expire in 2028 upon the repeal of the tax levied by this section. The franchise tax fee-in-lieu agreement shall apply only to new franchise tax liability attributable to the project, and shall not apply to any existing franchise tax liability of the enterprise in connection with any current operations in this state.

(vi) In the event that the annual number of full-time jobs maintained or caused to be maintained by the enterprise and/or any affiliate thereof falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise for one or more years, the franchise tax fee-in-lieu for the project may be reduced or suspended by the authority until the first tax year during which the annual number of full-time jobs maintained or caused to be maintained by the enterprise and/or its affiliates reaches the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise.

(vii) The enterprise shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax imposed by this chapter which is attributable to the project for any year for which it files a Mississippi franchise tax return. The enterprise shall be entitled to continue to utilize such single sales apportionment factor notwithstanding a suspension of the franchise tax fee-in-lieu pursuant to subparagraph (vi) of this paragraph. In no event shall an enterprise be entitled to utilize a single sales apportionment factor for purposes of calculating its liability for franchise tax imposed by this chapter attributable to any operations or activities thereof subject to tax liability imposed by this chapter prior to January 1, 2023, except to the extent that the enterprise is entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax attributable to any operations or activities thereof subject to tax liability imposed by this chapter prior to January 1, 2023, pursuant to any other section of law or regulation duly adopted by the department.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to

the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through 57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 or 57-113-21 that is exempt from certain state taxes under Section 57-113-5 or 57-113-25 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

(8) A taxpayer who is eligible to apply, as a credit against the tax levied by this chapter, a tax credit awarded by the Mississippi Development Authority in accordance with the Mississippi Flexible Tax Incentive Act may apply the tax credit in the amount available for such purpose, or such lesser amount determined by the taxpayer, pursuant to the Mississippi Flexible Tax Incentive Act. The credit applied for a tax-reporting period shall be reflected on the form of the return in the manner prescribed by the commissioner.

HISTORY: Codes, 1942, § 9313; Laws, 1934, ch. 121; Laws, 1940, ch. 115; Laws, 1955, Ex. ch. 118, § 1; Laws, 1962, ch. 589, § 1; Laws, 1964, ch. 512, § 1; Laws, 1975, ch. 467, § 2; Laws, 1982, ch. 489, § 8; Laws, 1989, ch. 485, § 5; Laws, 2000, 2nd Ex Sess, ch. 1, § 49; Laws, 2002, ch. 464, § 6; Laws, 2005, ch. 468, § 8; Laws, 2010, ch. 533, § 21; Laws, 2013, ch. 419, § 1 Laws, 2016, ch. 499, § 3; Laws, 2016, 1st Ex Sess, ch. 1, § 17, eff from and after Feb. 8, 2016; Laws, 2019, ch. 396, § 5, eff from and after July 1, 2019; Laws, 2022, 1st Ex. Sess., ch. 1, § 11, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, added (3)(c).

§ 27-13-7. Tax on foreign corporations [Repealed effective January 1, 2028].

(1)(a) **Franchise tax levy.** Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, levied and assessed upon every corporation, association or joint-stock company, or partnership treated as a corporation under the income tax laws or regulations as hereinbefore defined, organized and existing under and by virtue of the laws of some other state, territory or country, or organized and existing without any specific statutory authority, now or hereafter doing business or exercising any power, privilege or right within this state, as hereinbefore defined, a franchise or excise tax equal to:

(i) For tax years beginning before January 1, 2018, Two Dollars and Fifty Cents ($2.50) of each One Thousand Dollars ($1,000.00), or fraction thereof, of the value of capital used, invested or employed within this state, except as hereinafter provided.

(ii) For tax years beginning on or after January 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents ($2.50) for each One

Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iii) For tax years beginning on or after January 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five Cents ($2.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iv) For tax years beginning on or after January 1, 2020, but before January 1, 2021, Two Dollars ($2.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(v) For tax years beginning on or after January 1, 2021, but before January 1, 2022, One Dollar and Seventy-five Cents ($1.75) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vi) For tax years beginning on or after January 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents ($1.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vii) For tax years beginning on or after January 1, 2023, but before January 1, 2024, One Dollar and Twenty-five Cents ($1.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(viii) For tax years beginning on or after January 1, 2024, but before January 1, 2025, One Dollar ($1.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ix) For tax years beginning on or after January 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for each One Thousand Dollars

($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(x) For tax years beginning on or after January 1, 2026, but before January 1, 2027, Fifty Cents (50¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(xi) For tax years beginning on or after January 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(b) In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars ($25.00).

(c) It is the purpose of this section to require the payment of a tax by all organizations not organized under the laws of this state, measured by the amount of capital or its equivalent, for which such organization receives the benefit and protection of the government and laws of the state.

(2) **Annual report of foreign corporations.** Each foreign corporation authorized to transact business in this state shall file an annual report as required by the provisions of Section 79-4-16.22.

(3)(a) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; however, the fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(b)(i) As used in this paragraph:

1. "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

2. "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix); and

3. "Enterprise" shall mean the corporation authorized for the project pursuant to Section 57-75-5(f)(xxix).

(ii) The term of the franchise tax fee-in-lieu agreement negotiated under this subsection and authorized by Section 57-75-5(j), between the authority and the enterprise for the project shall not exceed twenty-five (25) years. The franchise tax fee-in-lieu agreement shall apply only to new franchise tax liability attributable to the project, and shall not apply to any existing franchise tax liability of the enterprise in connection with any current operations in this state.

(iii) In the event that the annual number of full-time jobs maintained by the enterprise falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the

authority and the enterprise for two (2) consecutive years, the franchise tax fee-in-lieu for the project shall be suspended until the first tax year during which the annual number of full-time jobs maintained by the enterprise reaches the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise.

(iv) The enterprise shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax imposed by this chapter which is attributable to the project for any year for which it files a Mississippi franchise tax return. The enterprise shall be entitled to continue to utilize such single sales apportionment factor notwithstanding a suspension of the franchise tax fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

(c) As used in this paragraph (c):

(i) "Affiliated enterprise" or an "affiliate" shall have the meaning ascribed to such term in Section 57-75-5(k)(ii);

(ii) "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

(iii) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxxi); and

(iv) "Enterprise" shall mean the corporation authorized for a particular project pursuant to Section 57-75-5(f)(xxxi), or any corporation which becomes subject to the tax levied by this section because it is an affiliate of the corporation or other enterprise authorized for a particular project pursuant to Section 57-75-5(f)(xxxi).

(v) The term of the franchise tax fee-in-lieu agreement negotiated under this subsection and authorized by Section 57-75-5(j), between the authority and the enterprise shall expire in 2028 upon the repeal of the tax levied by this section. The franchise tax fee-in-lieu agreement shall apply only to new franchise tax liability attributable to the project, and shall not apply to any existing franchise tax liability of the enterprise in connection with any current operations in this state.

(vi) In the event that the annual number of full-time jobs maintained by the enterprise falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise for one or more years, the franchise tax fee-in-lieu for the project may be reduced or suspended by the authority until the first tax year during which the annual number of full-time jobs maintained by the enterprise and/or its affiliates reaches the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise.

(vii) The enterprise shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax imposed by this chapter which is attributable to the project for any year for which it files a Mississippi franchise tax return. The enterprise shall be entitled to continue to utilize such single sales apportionment factor notwithstand-

ing a suspension of the franchise tax fee-in-lieu pursuant to subparagraph (vi) of this paragraph. In no event shall an enterprise be entitled to utilize a single sales apportionment factor for purposes of calculating its liability for franchise tax imposed by this chapter attributable to any operations or activities thereof subject to tax liability imposed by this chapter prior to January 1, 2023, except to the extent that the enterprise is entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax attributable to any operations or activities thereof subject to tax liability imposed by this chapter prior to January 1, 2023, pursuant to any other section of law or regulation duly adopted by the department.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through 57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 or 57-113-21 that is exempt from certain state taxes under Section 57-113-5 or 57-113-25 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

(8) A taxpayer who is eligible to apply as a credit against the tax levied by this chapter a tax credit awarded by the Mississippi Development Authority in accordance with the Mississippi Flexible Tax Incentive Act may apply the tax credit in the amount available for such purpose, or such lesser amount determined by the taxpayer, pursuant to the Mississippi Flexible Tax Incentive Act. The credit applied for a tax-reporting period shall be reflected on the form of the return in the manner prescribed by the commissioner.

HISTORY: Codes, 1942, § 9314; Laws, 1934, ch. 121; Laws, 1940, ch. 115; Laws, 1955, Ex. Ch. 118, § 2; Laws, 1962, ch. 589, § 2; Laws, 1964, ch. 512, § 2; Laws, 1975, ch. 467, § 3; Laws, 1982, ch. 489, § 9; Laws, 1989, ch. 485, § 6; Laws, 2000, 2nd Ex Sess, ch. 1, § 50; Laws, 2002, ch. 464, § 7; Laws, 2005, ch. 468, § 9; Laws, 2010, ch. 533, § 22; Laws, 2013, ch. 419, § 2; Laws, 2016, ch. 499, § 4; Laws, 2016, 1st Ex Sess, ch. 1, § 18, eff from and after Feb. 8, 2016; Laws, 2019, ch. 396, § 6, eff from and after July 1, 2019; Laws, 2022, 12th Ex. Sess. ch. 1, § 12, eff from and after passage (approved November 17, 2022); Laws, 2022, 1st Ex. Sess., ch. 1, § 12, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, added (3)(c).

CHAPTER 65.

SALES TAX

In General.....27-65-1

IN GENERAL

Sec.
27-65-101. Exemptions; industrial [Paragraph (1)(pp) repealed effective July 1, 2022].

§ 27-65-17. Selling tangible personal property wholesale and retail.

JUDICIAL DECISIONS

3. Particular applications.

Digital still images a wedding photography business created were not taxable as tangible personal property, because although the legislature had determined that the transfer of title or possession of certain specified digital products was a taxable event, it had not, through either Miss. Code Ann. § 27-65-26 or Miss. Code Ann. § 27-65-17, subjected to sales tax the transfer of title of digital still photographs. Miss. Dep't of Revenue v. EKB, Inc., 348 So. 3d 968, 2022 Miss. LEXIS 247 (Miss. 2022).

§ 27-65-23. Miscellaneous businesses.

JUDICIAL DECISIONS

I. Under Current Law.

2. Particular applications.

Wedding photography business was not subject to sales tax under Miss. Code Ann. § 27-65-23, which did not include photography among its list of enumerated business services and had not been amended to include the service of editing purely digital images. Miss. Dep't of Revenue v. EKB, Inc., 348 So. 3d 968, 2022 Miss. LEXIS 247 (Miss. 2022).

§ 27-65-43. Taxpayer must keep records.

JUDICIAL DECISIONS

1. In general.

Because a wedding photography business was not engaged in a taxable activity, it had no duty to keep records under Miss. Code Ann. § 27-65-43. Miss. Dep't of Revenue v. EKB, Inc., 348 So. 3d 968, 2022 Miss. LEXIS 247 (Miss. 2022).

§ 27-65-101. Exemptions; industrial [Paragraph (1)(pp) repealed effective July 1, 2022].

(1) The exemptions from the provisions of this chapter which are of an industrial nature or which are more properly classified as industrial exemptions than any other exemption classification of this chapter shall be confined

to those persons or property exempted by this section or by the provisions of the Constitution of the United States or the State of Mississippi. No industrial exemption as now provided by any other section except Section 57-3-33 shall be valid as against the tax herein levied. Any subsequent industrial exemption from the tax levied hereunder shall be provided by amendment to this section. No exemption provided in this section shall apply to taxes levied by Section 27-65-15 or 27-65-21.

The tax levied by this chapter shall not apply to the following:

(a) Sales of boxes, crates, cartons, cans, bottles and other packaging materials to manufacturers and wholesalers for use as containers or shipping materials to accompany goods sold by said manufacturers or wholesalers where possession thereof will pass to the customer at the time of sale of the goods contained therein and sales to anyone of containers or shipping materials for use in ships engaged in international commerce.

(b) Sales of raw materials, catalysts, processing chemicals, welding gases or other industrial processing gases (except natural gas) to a manufacturer for use directly in manufacturing or processing a product for sale or rental or repairing or reconditioning vessels or barges of fifty (50) tons load displacement and over. For the purposes of this exemption, electricity used directly in the electrolysis process in the production of sodium chlorate shall be considered a raw material. This exemption shall not apply to any property used as fuel except to the extent that such fuel comprises by-products which have no market value.

(c) The gross proceeds of sales of dry docks, offshore drilling equipment for use in oil or natural gas exploration or production, vessels or barges of fifty (50) tons load displacement and over, when the vessels or barges are sold by the manufacturer or builder thereof. In addition to other types of equipment, offshore drilling equipment for use in oil or natural gas exploration or production shall include aircraft used predominately to transport passengers or property to or from offshore oil or natural gas exploration or production platforms or vessels, and engines, accessories and spare parts for such aircraft.

(d) Sales to commercial fishermen of commercial fishing boats of over five (5) tons load displacement and not more than fifty (50) tons load displacement as registered with the United States Coast Guard and licensed by the Mississippi Commission on Marine Resources.

(e) The gross income from repairs to vessels and barges engaged in foreign trade or interstate transportation.

(f) Sales of petroleum products to vessels or barges for consumption in marine international commerce or interstate transportation businesses.

(g) Sales and rentals of rail rolling stock (and component parts thereof) for ultimate use in interstate commerce and gross income from services with respect to manufacturing, repairing, cleaning, altering, reconditioning or improving such rail rolling stock (and component parts thereof).

(h) Sales of raw materials, catalysts, processing chemicals, welding gases or other industrial processing gases (except natural gas) used or consumed directly in manufacturing, repairing, cleaning, altering, recondi-

tioning or improving such rail rolling stock (and component parts thereof). This exemption shall not apply to any property used as fuel.

(i) Sales of machinery or tools or repair parts therefor or replacements thereof, fuel or supplies used directly in manufacturing, converting or repairing ships, vessels or barges of three thousand (3,000) tons load displacement and over, but not to include office and plant supplies or other equipment not directly used on the ship, vessel or barge being built, converted or repaired. For purposes of this exemption, "ships, vessels or barges" shall not include floating structures described in Section 27-65-18.

(j) Sales of tangible personal property to persons operating ships in international commerce for use or consumption on board such ships. This exemption shall be limited to cases in which procedures satisfactory to the commissioner, ensuring against use in this state other than on such ships, are established.

(k) Sales of materials used in the construction of a building, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of construction of the building, or any addition thereon, to be used therein, to qualified businesses, as defined in Section 57-51-5, which are located in a county or portion thereof designated as an enterprise zone pursuant to Sections 57-51-1 through 57-51-15.

(*l*) Sales of materials used in the construction of a building, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of construction of the building, or any addition thereon, to be used therein, to qualified businesses, as defined in Section 57-54-5.

(m) Income from storage and handling of perishable goods by a public storage warehouse.

(n) The value of natural gas lawfully injected into the earth for cycling, repressuring or lifting of oil, or lawfully vented or flared in connection with the production of oil; however, if any gas so injected into the earth is sold for such purposes, then the gas so sold shall not be exempt.

(o) The gross collections from self-service commercial laundering, drying, cleaning and pressing equipment.

(p) Sales of materials used in the construction of a building, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of construction of the building, or any addition thereon, to be used therein, to qualified companies, certified as such by the Mississippi Development Authority under Section 57-53-1.

(q) Sales of component materials used in the construction of a building, or any addition or improvement thereon, sales of machinery and equipment to be used therein, and sales of manufacturing or processing machinery and equipment which is permanently attached to the ground or to a permanent foundation and which is not by its nature intended to be housed within a building structure, not later than three (3) months after the initial start-up

date, to permanent business enterprises engaging in manufacturing or processing in Tier Three areas (as such term is defined in Section 57-73-21), which businesses are certified by the Department of Revenue as being eligible for the exemption granted in this paragraph (q). The exemption provided in this paragraph (q) shall not apply to sales to any business enterprise that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(r)(i) Sales of component materials used in the construction of a building, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of the building, addition or improvement thereon, to be used therein, for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi and creating a minimum of twenty (20) jobs at the new headquarters in this state. The exemption provided in this subparagraph (i) shall not apply to sales for any company that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for the purpose of receiving the exemption provided in this subparagraph (i).

(ii) Sales of component materials used in the construction of a building, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of the building, addition or improvement thereon, to be used therein, for any company expanding or making additions after January 1, 2013, to its national or regional headquarters within the State of Mississippi and creating a minimum of twenty (20) new jobs at the headquarters as a result of the expansion or additions. The exemption provided in this subparagraph (ii) shall not apply to sales for any company that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for the purpose of receiving the exemption provided in this subparagraph (ii).

(s) The gross proceeds from the sale of semitrailers, trailers, boats, travel trailers, motorcycles, all-terrain cycles and rotary-wing aircraft if exported from this state within forty-eight (48) hours and registered and first used in another state.

(t) Gross income from the storage and handling of natural gas in underground salt domes and in other underground reservoirs, caverns, structures and formations suitable for such storage.

(u) Sales of machinery and equipment to nonprofit organizations if the organization:

(i) Is tax exempt pursuant to Section 501(c)(4) of the Internal Revenue Code of 1986, as amended;

(ii) Assists in the implementation of the contingency plan or area contingency plan, and which is created in response to the requirements of

Title IV, Subtitle B of the Oil Pollution Act of 1990, Public Law 101-380; and

(iii) Engages primarily in programs to contain, clean up and otherwise mitigate spills of oil or other substances occurring in the United States coastal and tidal waters.

For purposes of this exemption, "machinery and equipment" means any ocean-going vessels, barges, booms, skimmers and other capital equipment used primarily in the operations of nonprofit organizations referred to herein.

(v) Sales or leases of materials and equipment to approved business enterprises as provided under the Growth and Prosperity Act.

(w) From and after July 1, 2001, sales of pollution control equipment to manufacturers or custom processors for industrial use. For the purposes of this exemption, "pollution control equipment" means equipment, devices, machinery or systems used or acquired to prevent, control, monitor or reduce air, water or groundwater pollution, or solid or hazardous waste as required by federal or state law or regulation.

(x) Sales or leases to a manufacturer of motor vehicles or powertrain components operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) of machinery and equipment; special tooling such as dies, molds, jigs and similar items treated as special tooling for federal income tax purposes; or repair parts therefor or replacements thereof; repair services thereon; fuel, supplies, electricity, coal and natural gas used directly in the manufacture of motor vehicles or motor vehicle parts or used to provide climate control for manufacturing areas.

(y) Sales or leases of component materials, machinery and equipment used in the construction of a building, or any addition or improvement thereon to an enterprise operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii) or Section 57-75-5(f)(xxviii) and any other sales or leases required to establish or operate such project.

(z) Sales of component materials and equipment to a business enterprise as provided under Section 57-64-33.

(aa) The gross income from the stripping and painting of commercial aircraft engaged in foreign or interstate transportation business.

(bb) [Repealed]

(cc) Sales or leases to an enterprise owning or operating a project that has been designated by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xviii) of machinery and equipment; special tooling such as dies, molds, jigs and similar items treated as special tooling for federal income tax purposes; or repair parts therefor or replacements thereof; repair services thereon; fuel, supplies, electricity, coal and natural gas used directly in the manufacturing/production operations of the project or used to provide climate control for manufacturing/production areas.

(dd) Sales or leases of component materials, machinery and equipment used in the construction of a building, or any addition or improvement thereon to an enterprise owning or operating a project that has been designated by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xviii) and any other sales or leases required to establish or operate such project.

(ee) Sales of parts used in the repair and servicing of aircraft not registered in Mississippi engaged exclusively in the business of foreign or interstate transportation to businesses engaged in aircraft repair and maintenance.

(ff) Sales of component materials used in the construction of a facility, or any addition or improvement thereon, and sales or leases of machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition or improvement thereto, to be used in the building or any addition or improvement thereto, to a permanent business enterprise operating a data/information enterprise in Tier Three areas (as such areas are designated in accordance with Section 57-73-21), meeting minimum criteria established by the Mississippi Development Authority. The exemption provided in this paragraph (ff) shall not apply to sales to any business enterprise that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(gg) Sales of component materials used in the construction of a facility, or any addition or improvement thereto, and sales of machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition or improvement thereto, to be used in the facility or any addition or improvement thereto, to technology intensive enterprises for industrial purposes in Tier Three areas (as such areas are designated in accordance with Section 57-73-21), as certified by the Department of Revenue. For purposes of this paragraph, an enterprise must meet the criteria provided for in Section 27-65-17(1)(f) in order to be considered a technology intensive enterprise.

(hh) Sales of component materials used in the replacement, reconstruction or repair of a building or facility that has been destroyed or sustained extensive damage as a result of a disaster declared by the Governor, sales of machinery and equipment to be used therein to replace machinery or equipment damaged or destroyed as a result of such disaster, including, but not limited to, manufacturing or processing machinery and equipment which is permanently attached to the ground or to a permanent foundation and which is not by its nature intended to be housed within a building structure, to enterprises or companies that were eligible for the exemptions authorized in paragraph (q), (r), (ff) or (gg) of this subsection during initial construction of the building that was destroyed or damaged, which enterprises or companies are certified by the Department of Revenue as being eligible for the exemption granted in this paragraph.

(ii) Sales of software or software services transmitted by the Internet to a destination outside the State of Mississippi where the first use of such

software or software services by the purchaser occurs outside the State of Mississippi.

(jj) Gross income of public storage warehouses derived from the temporary storage of raw materials that are to be used in an eligible facility as defined in Section 27-7-22.35.

(kk) Sales of component building materials and equipment for initial construction of facilities or expansion of facilities as authorized under Sections 57-113-1 through 57-113-7 and Sections 57-113-21 through 57-113-27.

(*ll*) Sales and leases of machinery and equipment acquired in the initial construction to establish facilities as authorized in Sections 57-113-1 through 57-113-7.

(mm) Sales and leases of replacement hardware, software or other necessary technology to operate a data center as authorized under Sections 57-113-21 through 57-113-27.

(nn) Sales of component materials used in the construction of a building, or any addition or improvement thereon, and sales or leases of machinery and equipment not later than three (3) months after the completion of the construction of the facility, to be used in the facility, to permanent business enterprises operating a facility producing renewable crude oil from biomass harvested or produced, in whole or in part, in Mississippi, which businesses meet minimum criteria established by the Mississippi Development Authority. As used in this paragraph, the term "biomass" shall have the meaning ascribed to such term in Section 57-113-1.

(oo) Sales of supplies, equipment and other personal property to an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and is the host organization coordinating a professional golf tournament played or to be played in this state and the supplies, equipment or other personal property will be used for purposes related to the golf tournament and related activities.

(pp) Sales of materials used in the construction of a health care industry facility, as defined in Section 57-117-3, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition thereon, to be used therein, to qualified businesses, as defined in Section 57-117-3. This paragraph shall be repealed from and after July 1, 2025.

(qq) Sales or leases to a manufacturer of automotive parts operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxviii) of machinery and equipment; or repair parts therefor or replacements thereof; repair services thereon; fuel, supplies, electricity, coal, nitrogen and natural gas used directly in the manufacture of automotive parts or used to provide climate control for manufacturing areas.

(rr) Gross collections derived from guided tours on any navigable waters of this state, which include providing accommodations, guide services

and/or related equipment operated by or under the direction of the person providing the tour, for the purposes of outdoor tourism. The exemption provided in this paragraph (rr) does not apply to the sale of tangible personal property by a person providing such tours.

(ss) Retail sales of truck-tractors and semitrailers used in interstate commerce and registered under the International Registration Plan (IRP) or any similar reciprocity agreement or compact relating to the proportional registration of commercial vehicles entered into as provided for in Section 27-19-143.

(tt) Sales exempt under the Facilitating Business Rapid Response to State Declared Disasters Act of 2015 (Sections 27-113-1 through 27-113-9).

(uu) Sales or leases to an enterprise and its affiliates operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxix) of:

(i) All personal property and fixtures, including without limitation, sales or leases to the enterprise and its affiliates of:

1. Manufacturing machinery and equipment;

2. Special tooling such as dies, molds, jigs and similar items treated as special tooling for federal income tax purposes;

3. Component building materials, machinery and equipment used in the construction of buildings, and any other additions or improvements to the project site for the project;

4. Nonmanufacturing furniture, fixtures and equipment (inclusive of all communications, computer, server, software and other hardware equipment); and

5. Fuel, supplies (other than nonmanufacturing consumable supplies and water), electricity, nitrogen gas and natural gas used directly in the manufacturing/production operations of such project or used to provide climate control for manufacturing/production areas of such project;

(ii) All replacements of, repair parts for or services to repair items described in subparagraph (i)1, 2 and 3 of this paragraph; and

(iii) All services taxable pursuant to Section 27-65-23 required to establish, support, operate, repair and/or maintain such project.

(vv) Sales or leases to an enterprise operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxx) of:

(i) Purchases required to establish and operate the project, including, but not limited to, sales of component building materials, machinery and equipment required to establish the project facility and any additions or improvements thereon; and

(ii) Machinery, special tools (such as dies, molds, and jigs) or repair parts thereof, or replacements and lease thereof, repair services thereon, fuel, supplies and electricity, coal and natural gas used in the manufacturing process and purchased by the enterprise owning or operating the project for the benefit of the project.

(ww) Sales of component materials used in the construction of a building, or any expansion or improvement thereon, sales of machinery and/or equipment to be used therein, and sales of processing machinery and equipment which is permanently attached to the ground or to a permanent foundation which is not by its nature intended to be housed in a building structure, no later than three (3) months after initial startup, expansion or improvement of a permanent enterprise solely engaged in the conversion of natural sand into proppants used in oil and gas exploration and development with at least ninety-five percent (95%) of such proppants used in the production of oil and/or gas from horizontally drilled wells and/or horizontally drilled recompletion wells as defined in Sections 27-25-501 and 27-25-701.

(xx)(i) Sales or leases to an enterprise operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxxi), for a period ending no later than one (1) year following completion of the construction of the facility or facilities comprising such project of all personal property and fixtures, including without limitation, sales or leases to the enterprise and its affiliates of:

1. Manufacturing machinery and equipment;

2. Special tooling such as dies, molds, jigs and similar items treated as special tooling for federal income tax purposes;

3. Component building materials, machinery and equipment used in the construction of buildings, and any other additions or improvements to the project site for the project;

4. Nonmanufacturing furniture, fixtures and equipment (inclusive of all communications, computer, server, software and other hardware equipment);

5. Replacements of, repair parts for or services to repair items described in this subparagraph (i)1, 2 and 3; and

6. All services taxable pursuant to Section 27-65-23 required to establish, support, operate, repair and/or maintain such project; and

(ii) Sales or leases to an enterprise operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxxi) of electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel, biomass, nitrogen or other atmospheric or other industrial gases used directly by the enterprise in the manufacturing/production operations of its project or used to provide climate control for manufacturing/production areas (which manufacturing/production areas shall be apportioned based on square footage). As used in this paragraph, the term "biomass" shall have the meaning ascribed to such term in Section 57-113-1.

(2) Sales of component materials used in the construction of a building, or any addition or improvement thereon, sales of machinery and equipment to be used therein, and sales of manufacturing or processing machinery and equipment which is permanently attached to the ground or to a permanent foundation and which is not by its nature intended to be housed within a

building structure, not later than three (3) months after the initial start-up date, to permanent business enterprises engaging in manufacturing or processing in Tier Two areas and Tier One areas (as such areas are designated in accordance with Section 57-73-21), which businesses are certified by the Department of Revenue as being eligible for the exemption granted in this subsection, shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter. The exemption provided in this subsection (2) shall not apply to sales to any business enterprise that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(3) Sales of component materials used in the construction of a facility, or any addition or improvement thereon, and sales or leases of machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition or improvement thereto, to be used in the building or any addition or improvement thereto, to a permanent business enterprise operating a data/information enterprise in Tier Two areas and Tier One areas (as such areas are designated in accordance with Section 57-73-21), which businesses meet minimum criteria established by the Mississippi Development Authority, shall be exempt from one-half (1/2) of the taxes imposed on such transaction under this chapter. The exemption provided in this subsection (3) shall not apply to sales to any business enterprise that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(4) Sales of component materials used in the construction of a facility, or any addition or improvement thereto, and sales of machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition or improvement thereto, to be used in the building or any addition or improvement thereto, to technology intensive enterprises for industrial purposes in Tier Two areas and Tier One areas (as such areas are designated in accordance with Section 57-73-21), which businesses are certified by the Department of Revenue as being eligible for the exemption granted in this subsection, shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter. For purposes of this subsection, an enterprise must meet the criteria provided for in Section 27-65-17(1)(f) in order to be considered a technology intensive enterprise.

(5)(a) For purposes of this subsection:

(i) "Telecommunications enterprises" shall have the meaning ascribed to such term in Section 57-73-21;

(ii) "Tier One areas" mean counties designated as Tier One areas pursuant to Section 57-73-21;

(iii) "Tier Two areas" mean counties designated as Tier Two areas pursuant to Section 57-73-21;

(iv) "Tier Three areas" mean counties designated as Tier Three areas pursuant to Section 57-73-21; and

(v) "Equipment used in the deployment of broadband technologies" means any equipment capable of being used for or in connection with the transmission of information at a rate, prior to taking into account the

effects of any signal degradation, that is not less than three hundred eighty-four (384) kilobits per second in at least one (1) direction, including, but not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics and related equipment.

(b) Sales of equipment to telecommunications enterprises after June 30, 2003, and before July 1, 2025, that is installed in Tier One areas and used in the deployment of broadband technologies shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter.

(c) Sales of equipment to telecommunications enterprises after June 30, 2003, and before July 1, 2025, that is installed in Tier Two and Tier Three areas and used in the deployment of broadband technologies shall be exempt from the taxes imposed on such transactions under this chapter.

(6) Sales of component materials used in the replacement, reconstruction or repair of a building that has been destroyed or sustained extensive damage as a result of a disaster declared by the Governor, sales of machinery and equipment to be used therein to replace machinery or equipment damaged or destroyed as a result of such disaster, including, but not limited to, manufacturing or processing machinery and equipment which is permanently attached to the ground or to a permanent foundation and which is not by its nature intended to be housed within a building structure, to enterprises that were eligible for the partial exemptions provided for in subsections (2), (3) and (4) of this section during initial construction of the building that was destroyed or damaged, which enterprises are certified by the Department of Revenue as being eligible for the partial exemption granted in this subsection, shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter.

HISTORY: Laws, 1978, ch. 347, § 3; Laws, 1980, ch. 500, § 1; Laws, 1982, 1st Ex Sess, ch. 17, § 41; Laws, 1983, ch. 475, § 10, ch. 491, § 10, ch. 546, § 3; Laws, 1984, ch. 381, § 7; Laws, 1984, ch. 458, § 6; Laws, 1985, ch. 516, § 3; Laws, 1986, ch. 410, § 3; Laws, 1987, ch. 454, § 1; Laws, 1989, ch. 524, § 20; Laws, 1990, ch. 525, § 1; Laws, 1992, ch. 462, § 2; Laws, 1992, ch. 548 § 2; Laws, 1994, ch. 510, § 1; Laws, 1998, ch. 526, § 1; Laws, 1999, ch. 450, § 2; Laws, 2000, ch. 516, § 5; Laws, 2000, 2nd Ex Sess, ch. 1, § 51; Laws, 2000, 3rd Ex Sess, ch. 1, § 14; Laws, 2002, ch. 464, § 8; Laws, 2003, ch. 464, § 1; Laws, 2003, ch. 520, § 5; Laws, 2004, ch. 469, § 2; Laws, 2004, ch. 528, § 6; Laws, 2005, ch. 315, § 4; Laws, 2005, ch. 486, § 2; Laws, 2005, 3rd Ex Sess, ch. 1 § 65; Laws, 2007, ch. 303, § 15; Laws, 2007, ch. 503, § 1; Laws, 2007, 1st Ex Sess, ch. 1, § 12; Laws, 2008, ch. 439, § 1; Laws, 2009, ch. 512, § 2; Laws, 2010, ch. 533, § 23; Laws, 2010, 2nd Ex Sess, ch. 30, § 5; Laws, 2011, ch. 453, § 3; Laws, 2012, ch. 520, § 9; Laws, 2013, ch. 462, § 1; Laws, 2013, ch. 571, § 1; Laws, 2013, 1st Ex Sess, ch. 1, § 10; Laws, 2014, ch. 429, § 1; Laws, 2014, ch. 505, § 1; Laws, 2014, ch. 528, § 2; Laws, 2015, ch. 420, § 12; Laws, 2016, 1st Ex Sess, ch. 1, § 13; Laws, 2017, ch. 413, § 2, eff from and after July 1, 2017; Laws, 2018, ch. 389, § 1, eff from and after July 1, 2018; Laws, 2020, ch. 453, § 5, eff from and after July 1, 2020; Laws, 2022, 1st Ex. Sess., ch. 1, § 8, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, added (1)(xx).

CHAPTER 103.

STATE BUDGET

BUDGET CONTINGENCY AND CAPITAL EXPENSE FUNDS

§ 27-103-302.1. State BP Settlement Fund created.

Editor's Notes — Laws of 2022, ch. 510, § 18, effective July 1, 2022, provides:

"SECTION 18. Upon the effective date of this act, the State Fiscal Officer shall transfer the sum of Twenty Million Eight Hundred Thousand Dollars ($20,800,000.00) from the State BP Settlement Fund created in Section 27-103-302.1, Mississippi Code of 1972, to the 2022 Local Improvements Projects Fund created in Section 25 of this act."

The Editor's Note set out above was mistakenly omitted from the 2022 Volume 8C supplement.

TITLE 31.

PUBLIC BUSINESS, BONDS AND OBLIGATIONS

Chapter 19. Public Debts.....31-19-1

CHAPTER 19.

PUBLIC DEBTS

Sec.

31-19-25. Sale of bonds to be advertised.

§ 31-19-25. Sale of bonds to be advertised.

All bonds issued pursuant to any laws of this state and hereafter sold by the governing authority of or on behalf of any county, road district, school district, drainage district or other political subdivision or instrumentality of this state shall be advertised for sale on sealed bids, which may be submitted in electronic form, or at public auction. Such advertisement shall be published at least two (2) times in a newspaper published in the county in which the political subdivision or instrumentality is situated, and if no newspaper is published in such county, then in a newspaper published in an adjoining county; with respect to a political subdivision or instrumentality which is composed of more than one (1) county, such advertisement shall be published at least two (2) times in a newspaper having a general circulation in each county all or a portion of which is part of the political subdivision or instrumentality. The first publication in each case shall be made at least ten (10) days preceding the date fixed for the reception of bids, and such notice shall give the time and place of sale.

The governing authority may reject any and all bids, whether so stated in the notice of sale or not. If the bonds are not sold pursuant to such advertisement, they may be sold by the governing authority by private sale at any time within sixty (60) days after the date advertised for the reception of bids; but no such private sale shall be made at a price less than the highest bid which shall have been received pursuant to such advertisement. If not so sold at private sale, said bonds shall be readvertised in the manner herein prescribed.

Every bid for the purchase of any of such bonds shall be accompanied by a wire transfer or a cashier's check, certified check or exchange, payable to the proper governing authority, issued or certified by a bank in the amount of not less than two percent (2%) of the par value of the bonds offered for sale, as a guaranty that the bidder will carry out his contract and purchase the bonds if the bid is accepted. If the successful bidder fails to purchase the bonds pursuant to his bid and contract, the amount of such good faith check shall be retained by the governing authority and covered into the proper fund as liquidated damages for such failure.

This section shall not apply to the sale of bonds by the State of Mississippi through the State Bond Commission or the sale of bonds or any other indebtedness incurred by a county in connection with a project as defined under Section 57-75-5(f)(xxviii), Section 57-75-5(f)(xxix) or Section 57-75-5(f)(xxxi).

A failure to comply with any provision of this section shall not invalidate such bonds, but any member of the governing board, commission or other governing authority who shall willfully violate any of said provisions and shall willfully fail to give the notices herein required shall be liable personally and on his official bond for a penalty in each case of Five Hundred Dollars ($500.00) and, in addition thereto, for all financial loss that may result to the county, municipality, road district, school district, drainage district or other political subdivision or instrumentality of the state or county resulting from such willful failure to comply herewith. Such penalty and damages may be recovered by suit of the Attorney General, a district attorney or of any citizen of such county or other political subdivision in any court of competent jurisdiction, for the use and benefit of the county or other such political subdivision or instrumentality.

HISTORY: Codes, 1942, § 4357-01; Laws, 1946, ch. 325, §§ 1, 2; Laws, 1987, ch. 434; Laws, 2013, 1st Ex Sess, ch. 1, § 11; Laws, 2016, 1st Ex Sess, ch. 1, § 15, eff from and after passage (approved Feb. 8, 2016); Laws, 2020, ch. 480, § 1, eff from and after passage (approved July 8, 2020); Laws, 2022, 1st Ex. Sess., ch. 1, § 9, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, in the fourth paragraph, added "or Section 57-75-5(f)(xxxi)," and made a related change.

TITLE 41.

PUBLIC HEALTH

Chapter 3. State Board of Health; Local Health Boards and Officers.....41-3-1
Chapter 137. Mississippi Medical Cannabis Act.....41-137-1

CHAPTER 3.

STATE BOARD OF HEALTH; LOCAL HEALTH BOARDS AND OFFICERS

In General.....41-3-1

IN GENERAL

Sec.
41-3-16.1. ARPA Rural Water Associations Infrastructure Grant Program; purpose; funding sources; grant application ranking; report [Subsection (8) repealed effective July 1, 2026].

§ 41-3-16.1. ARPA Rural Water Associations Infrastructure Grant Program; purpose; funding sources; grant application ranking; report [Subsection (8) repealed effective July 1, 2026].

(1) The State Department of Health (department) shall establish a grant program to be known as the ARPA Rural Water Associations Infrastructure Grant Program (program) to assist rural water associations in the construction of eligible drinking water infrastructure projects as provided in the Final Rule for the Coronavirus State and Local Fiscal Recovery Funds as established by the federal American Rescue Plan Act (ARPA).

(2) The program shall be funded from appropriations by the Legislature to the department from the Coronavirus State Fiscal Recovery Fund, and the department shall expend all such funds for the purposes provided in subsection (1) of this section. It is the intent of the Legislature that, in the first fiscal year after April 25, 2022, twenty percent (20%) of the funds appropriated to the department for the program be obligated to projects that have completed plans and specifications, acquired all necessary land and/or easements, and are ready to proceed to construction.

(3) The department shall obligate the funds by the deadline set by the rules and guidelines of the United States Department of the Treasury and will adhere to the Treasury's rules and guidelines for reporting and monitoring projects funded through ARPA.

(4) The department shall develop a system for use in ranking the grant applications received. The ranking system shall include the following factors, at a minimum: (a) the environmental impact of the proposed project; (b) the

proposed project's ability to address noncompliance with state/federal requirements; (c) the extent to which the project promotes economic development; (d) the number of people served by the project (both new and existing users); (e) impacts of the proposed project on disadvantaged/ overburdened communities; (f) the grant applicant's prior efforts to secure funding to address the proposed project's objectives; (g) the grant applicant's proposed contribution of other funds or in-kind cost-sharing to the proposed project; (h) the grant applicant's long-term plans for the financial and physical operation and maintenance of the project; and (i) the grant applicant's capacity to initiate construction in a timely manner and complete the proposed project by the deadline specified by rules and guidelines of the United States Department of the Treasury for ARPA funds.

(5) An application for a grant under this section shall be submitted at such time, be in such form, and contain such information as the department prescribes.

(6) Upon the approval of an application for a grant under this section, the department shall enter into a project grant agreement with each grantee to establish the terms of the grant for the project, including the amount of the grant. The maximum amount of funds that may be provided to any rural water association from all grants under the program is Two Million Five Hundred Thousand Dollars ($2,500,000.00).

(7) The department shall have all powers necessary to implement and administer the program. Of the funds appropriated to the department for the program, not more than five percent (5%) may be used by the department to cover the department's costs of administering the program.

(8) In carrying out its responsibilities under the program, for any contract under the purview of the Public Procurement Review Board (PPRB), the department shall be exempt from any requirement that the PPRB approve any personal or professional services contracts or pre-approve any solicitation of such contracts. This subsection shall stand repealed on July 1, 2026.

(9) The department shall submit an annual report regarding the program no later than December 31 of each year to the Lieutenant Governor, the Speaker of the House, and the Chairmen of the Senate and House Appropriations Committees.

HISTORY: Laws, 2022, ch. 506, § 1, eff from and after passage (approved April 25, 2022).

Editor's Notes —This section is set out above to correct an error in subsection (2) as it appeared in the 2022 Volume 11 supplement by substituting "April 25, 2022" for "the effective date of this act."

CHAPTER 29.

POISONS, DRUGS AND OTHER CONTROLLED SUBSTANCES

ARTICLE 3.

UNIFORM CONTROLLED SUBSTANCES LAW.

§ 41-29-139. Prohibited acts; penalties.

JUDICIAL DECISIONS

III. PROSECUTION; PROCEDURE.

11. Indictment.

Because the prosecution's references to the name of the crime were not improper or objectionable, defense counsel did not provide ineffective assistance by not objecting. The indictment clearly stated that defendant was indicted for "Trafficking" in violation of the drug trafficking statute. Carruthers v. State, 348 So. 3d 1042, 2022 Miss. App. LEXIS 365 (Miss. Ct. App. 2022).

§ 41-29-153. Forfeitures.

JUDICIAL DECISIONS

1. In general.

Forfeiture of money was appropriate because the totality of the circumstances —the recently leased vehicle which the claimant was driving when stopped, the paper tag on the vehicle, the quick turnaround trip which the claimant took along a well-known drug trafficking route, the packaging of the currency found in the lining of a coat in the vehicle, a police K-9 alerting to the presence of drugs on the currency, and the claimant's lies to the police about the currency in which the claimant disavowed any ownership—supported the ruling. Forty-One Thousand Eighty Dollars $41,080.00 in United States Currency v. State ex rel. Brandon Police Dep't, — So. 3d —, 2022 Miss. App. LEXIS 417 (Miss. Ct. App. Nov. 22, 2022).

§ 41-29-179. Procedure for disposition of seized property; answer; hearing; burden of proving property subject to forfeiture; disposition after court's finding; summary forfeiture of controlled substances, raw material and paraphernalia.

JUDICIAL DECISIONS

1. In general.

Forfeiture of money was appropriate because the totality of the circumstances —the recently leased vehicle which the claimant was driving when stopped, the paper tag on the vehicle, the quick turnaround trip which the claimant took along a well-known drug trafficking route, the packaging of the currency found in the lining of a coat in the vehicle, a police K-9 alerting to the presence of drugs on the currency, and the claimant's lies to the police about the currency in which the claimant disavowed any ownership—sup-

ported the ruling. Forty-One Thousand Eighty Dollars $41,080.00 in United States Currency v. State ex rel. Brandon Police Dep't, — So. 3d —, 2022 Miss. App. LEXIS 417 (Miss. Ct. App. Nov. 22, 2022).

CHAPTER 137.

MISSISSIPPI MEDICAL CANNABIS ACT

Sec.
41-137-7. General responsibilities of departments.

§ 41-137-7. General responsibilities of departments.

(1) The MDOH shall have the ultimate authority for oversight of the administration of the medical cannabis program, and the MDOH shall coordinate the activities of the MDOH and MDOR under the provisions of this chapter in order to best effectuate the purpose and intent of this chapter.

(2) The MDOH may contract with other governmental agencies and public or private third parties to assist the MDOH with carrying out any of the responsibilities delegated to the MDOH under this section. However, the MDOH shall be ultimately responsible for the performance of any responsibilities that are exercised by any agency or third party with which the MDOH has contracted under the authority of this section.

(3) The MDOH shall be responsible for:

(a) The licensing, oversight and inspection of cannabis testing facilities and cannabis research facilities;

(b) The licensing of cannabis cultivation facilities, cannabis processing facilities, cannabis transportation entities and cannabis disposal entities;

(c) The application and licensing of registry identification cards for qualifying patients and designated caregivers;

(d) The registering of practitioners in accordance with this chapter; and

(e) The selection, certification and oversight of the statewide seed-to-sale tracking system as provided for in Section 41-137-11.

(4) Unless otherwise provided herein, the MDOR shall be responsible for the licensing, inspection and oversight of medical cannabis dispensaries.

(5) The MDOR and MDOH shall accept applications for and award licenses according to their respective duties as provided for in this chapter, subject to the following:

(a) After one hundred twenty (120) days from February 2, 2022, the MDOH shall begin accepting applications, registering and licensing registry identification cards and practitioners.

(b) After one hundred twenty (120) days from February 2, 2022, the MDOH shall begin licensing and registering cannabis cultivation facilities, cannabis processing facilities, cannabis testing facilities, cannabis research facilities, cannabis disposal entities and cannabis transportation entities. After one hundred fifty (150) days from February 2, 2022, the MDOR shall issue licenses for medical cannabis dispensaries as provided for in this

chapter within thirty (30) days of receipt of the application from an applicant or within thirty (30) days after the initial one-hundred-fifty-day period, whichever is the later date.

(6) The MDOR and MDOH shall issue a registration certificate and a random ten-digit alphanumeric identification number to each licensed medical cannabis establishment, as applicable.

(7) After one hundred twenty (120) days from February 2, 2022, the MDOH shall issue licenses according to their respective duties as provided for in this chapter within thirty (30) days of receipt of the application from an applicant or within thirty (30) days after the initial one-hundred-twenty-day period, whichever is the later date. After one hundred fifty (150) days from February 2, 2022, the MDOR shall issue licenses according to their respective duties as provided for in this chapter within thirty (30) days of receipt of the application from an applicant or within thirty (30) days after the initial one-hundred-fifty-day period, whichever is the later date.

(8) It is the intent of the Legislature that the MDOH and MDOR and any other state agency, as needed, shall cooperate and collaborate together to accomplish the purposes of this chapter.

(9)(a) Subject to paragraph (b) of this subsection, the Department of Public Safety shall not be involved in or have any role regarding the administration, regulation or oversight of the medical cannabis program established under this chapter; however, this provision does not prohibit the department from carrying out any law enforcement activities that a law enforcement agency may exercise under this chapter or that the department may exercise under the authority of any other law.

(b) The Department of Public Safety may assist the MDOH in conducting background checks of individuals as required under this chapter.

HISTORY: Laws, 2022, ch. 303, § 4, eff from and after passage (approved February 2, 2022).

Editor's Notes — This section is set out above to correct an error in subsection (2) as it appeared in the 2022 Volume 11 supplement by substituting "this section" for "this subsection."

TITLE 43.

PUBLIC WELFARE

Chapter 37. Acquisition of Real Property Using Public Funds.....43-37-1

CHAPTER 19.

SUPPORT OF NATURAL CHILDREN

CHILD SUPPORT UNIT

§ 43-19-34. Stipulated agreement for modification of support order; Child Support Unit authorized to send motion and notice of intent to modify; reviews for possible modification to be conducted on 3-year cycle; only upward adjustments to be ordered retroactively; noncustodial parent's arrearage not to bar review or downward modification.

JUDICIAL DECISIONS

2. Retroactive upward modification of support.

In post-divorce proceedings where the ex-wife filed a petition for modification because her ex-husband did not obtain employment or provide her formal notice of that fact, the chancellor did not err by awarding child support retroactive to a date prior to the filing of her petition for modification under Miss. Code Ann. § 43-19-34(4); the date chosen was the day the husband said he would begin paying child support. Ponder v. Ponder, 349 So. 3d 212, 2022 Miss. App. LEXIS 372 (Miss. Ct. App. 2022).

CHILD SUPPORT AWARD GUIDELINES

§ 43-19-101. Child support award guidelines.

JUDICIAL DECISIONS

5. Findings of fact.

Because the trial court made no findings at all concerning how it calculated the child support, and given the statute's mandatory language, the court remanded for the required findings. Green v. Green, — So. 3d —, 2022 Miss. App. LEXIS 380 (Miss. Ct. App. Oct. 18, 2022).

CHAPTER 21.
YOUTH COURT

DISPOSITION

§ 43-21-603. Disposition hearing procedure.

JUDICIAL DECISIONS

I. Under Current Law.

2. In general.

Record contained sufficient credible evidence to support the youth court's termination of both the father's and the mother's parental rights because, due to the mother's severe intellectual disability, placement within the parents' home was contrary to the welfare and best interests of the child. Moreover, because placement of the child in the parents' home was contrary to the child's welfare, the youth court did not err in determining that reasonable efforts for reunification between the child and her parents was not required. C.P. v. Lowndes Cnty. Dep't of Child Prot. Servs., — So. 3d —, 2022 Miss. App. LEXIS 383 (Miss. Ct. App. Oct. 25, 2022).

CHAPTER 37.
ACQUISITION OF REAL PROPERTY USING PUBLIC FUNDS

Sec.
43-37-3. Acquisition of real property in publicly funded projects.

§ 43-37-3. Acquisition of real property in publicly funded projects.

(1) Any person, agency or other entity acquiring real property for any project or program in which public funds are used shall comply with the following policies:

(a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, except that the acquiring person, agency or other entity may adopt a procedure in compliance with federal regulations to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value. For the purposes of this chapter, property with a low fair market value is property with a fair market value of Ten Thousand Dollars ($10,000.00) or less. The owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(c)(i) Except as otherwise provided in subparagraph (ii) of this paragraph, the price that shall be paid for real property shall be the lesser of the best negotiated price or the approved appraisal of the fair market

value or the price at which the property is offered for sale. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(ii) The purchase price for real property may exceed the amount offered as just compensation for the property when reasonable efforts to negotiate an agreement at that amount have failed, and the person, agency or other entity seeking to acquire the property approves an administrative settlement as reasonable, prudent and in the best interests of the public. When state funds pay for all or a portion of the acquisition, the purchasing person, agency or other entity shall prepare a written statement explaining the reasons that justified the purchase price exceeding the amount offered as just compensation, including any anticipated trial risks, and any available information supporting an administrative settlement.

(d) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or there is deposited with the state court, in accordance with applicable law, for the benefit of the owner an amount not less than the approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

(e) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least ninety (90) days' written notice from the date by which such move is required.

(f) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the acquiring authority on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(g) In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(h) If an interest in real property is to be acquired by exercise of power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring authority shall not intentionally make it necessary for an

owner to institute legal proceedings to prove the fact of the taking of his real property.

(i) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire that remnant shall be made. For the purposes of this chapter, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the person, agency or other entity acquiring the property determines has little or no value or utility to the owner.

(j) A person whose real property is being acquired in accordance with this chapter may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, any part thereof, any interest therein or any compensation paid therefor to the person, agency or other entity acquiring the property in such manner as he so determines.

(2) Any real property acquired by any person, agency or other entity using public funds in accordance with Section 57-75-37(3), Section 57-75-37(4) or Section 57-75-37(5) shall be exempt from the provisions of subsection (1)(b) and (c) of this section to the extent permitted by Section 57-75-37(3), Section 57-75-37(4) or Section 57-75-37(5).

HISTORY: Codes, 1942, § 2749-55; Laws, 1972, ch. 525, § 5; Laws, 1989, ch. 457, § 1; Laws, 1991, ch. 418 § 1; Laws, 1996, ch. 426, § 2; Laws, 2008, ch. 339, § 1; Laws, 2009, ch. 531, § 1; Laws, 2013, 1st Ex Sess, ch. 1, § 12; Laws, 2016, 1st Ex Sess, ch. 1, § 16, eff from and after passage (approved Feb. 8, 2016); Laws, 2022, 1st Ex. Sess., ch. 1, § 10, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, in (2), inserted "or Section 57-75-37(5)" both times it appears, and made related changes.

CHAPTER 47.

MISSISSIPPI VULNERABLE PERSONS ACT

§ 43-47-19. Prohibition against abuse, neglect, or exploitation; penalties; relation to other laws.

JUDICIAL DECISIONS

5. Evidence sufficient

Defendant's mother testified that because of her age and cancer, she could not do the activities she once did, and she could not defend herself against her son as she once could, and the jury saw the video of the attack and heard the mother's testimony and other witness testimony; the evidence was sufficient for a rational jury to find beyond a reasonable doubt that the mother, a sixty-eight-year-old cancer patient, was a vulnerable person. Davis v. State, 347 So. 3d 1205, 2022 Miss. App. LEXIS 340 (Miss. Ct. App. 2022).

TITLE 49.

CONSERVATION AND ECOLOGY

CHAPTER 2.

DEPARTMENT OF ENVIRONMENTAL QUALITY

2022 TATE COUNTY – EROSION CONTROL AND REPAIR FUND

§ 49-2-91 2022 Tate County – Erosion Control and Repair Fund created; use of monies.

Editor's Note — Laws, 2022, ch. 510, § 9, provides:

"SECTION 9. Upon the effective date of this act, the State Fiscal Officer shall transfer the sum of One Million Five Hundred Thousand Dollars ($1,500,000.00) from the Capital Expense Fund created in Section 27-103-303, Mississippi Code of 1972, to the 2022 Tate County - Erosion Control and Repair Fund created in Section 24 of this act."

The Editor's Note set out above was mistakenly omitted from the 2022 Volume 12 supplement.

TITLE 57.

PLANNING, RESEARCH AND DEVELOPMENT

Chapter 1. Mississippi Development Authority.....57-1-1
Chapter 75. Mississippi Major Economic Impact Act...57-75-1

CHAPTER 1.

MISSISSIPPI DEVELOPMENT AUTHORITY

Triple Crown Project Fund.....57-1-651

TRIPLE CROWN PROJECT FUND

Sec.
57-1-651. Triple Crown Project Fund created; purpose; use of monies; annual report.

§ 57-1-651 Triple Crown Project Fund created; purpose; use of monies; annual report.

(1) There is created a special fund in the State Treasury to be known as the "Triple Crown Project Fund" which shall consist of monies from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund.

(2)(a) Monies in the fund shall be disbursed by the Mississippi Development Authority for the purpose of providing grants or loans to fund certain flat-rolled aluminum production facilities, biocarbon production facilities, certain other industrial facilities and related port improvement projects as defined in Section 57-75-5(f)(xxxi).

(b) In addition to the purpose in subsection (2) of this section, monies appropriated out of the fund may be used to reimburse reasonable actual and necessary oversight costs and engineering expenses incurred by the Mississippi Development Authority in providing grants or loans under this section. The Mississippi Development Authority shall maintain an accounting of actual costs and expenses incurred for which reimbursement is sought for each grant or loan. Reimbursement of reasonable actual and necessary costs and expenses for assistance shall not exceed one and twenty-five one-hundredths percent (1.25%) of the monies appropriated out of the fund. Reimbursements made under this paragraph shall satisfy any applicable federal tax law requirements.

(3) On or before January 5 of each year, the Mississippi Development Authority shall file an accounting of and report on the number and amount of grants and loans disbursed from the Triple Crown Project Fund, including an accounting of the actual costs and expenses incurred by the Mississippi Development authority. The report shall be filed with the Speaker of the

House, the Lieutenant Governor, the Chairs of the Appropriations Committees of the Senate and the House, the Chair of the Finance Committee of the Senate, the Chair of the Ways and Means Committee of the House and the Governor.

HISTORY: Laws, 2022, 1st Ex. Sess. ch. 2, § 1, eff from and after passage (approved November 17, 2022).

Editor's Notes — Laws of 2022, 1st Extraordinary Session, ch. 2, § 2, effective November 17, 2022, provides:

"SECTION 2. Upon the effective date of this act, the State Fiscal Officer shall transfer the sum of Eighty-one Million One Hundred Five Thousand Dollars ($81,105,000.00) from the Capital Expense Fund created in Section 27-103-303, Mississippi Code of 1972, to the Triple Crown Project Fund created in Section 1 of this act [codified as Section 57-1-651]."

CHAPTER 75.

MISSISSIPPI MAJOR ECONOMIC IMPACT ACT

Sec.

57-75-5. Definitions [Repealed effective July 1, 2023].

57-75-9. Action by authority on behalf of state; cooperation of public agencies with authority; contracts by authority or public agency.

57-75-11. General powers and duties of authority.

57-75-15. Powers and duties of State Bond Commission.

57-75-17. Powers and duties of public agencies; provision in contracts or agreements between authority and public agency for payment of indebtedness; proceedings upon failure of public agency to pay indebtedness.

57-75-33. Counties and municipalities authorized to enter into agreements with enterprises operating certain projects, providing that no taxes, fees or assessments will be levied upon the enterprise other than those generally levied upon all taxpayers; counties and municipalities authorized to enter into fee in lieu of ad valorem taxes agreements.

57-75-37. Certain counties authorized to contribute or lend funds to enterprises owning or operating certain projects; county may issue bonds to provide funds for such purposes; county may donate property for use in the location, construction, or operation of such projects; additional authority to acquire and contribute project sites, apply for grants and loans for project infrastructure, and enter into certain lease agreements.

§ 57-75-5. Definitions [Repealed effective July 1, 2023].

Words and phrases used in this chapter shall have meanings as follows, unless the context clearly indicates a different meaning:

(a) "Act" means the Mississippi Major Economic Impact Act as originally enacted or as hereafter amended.

(b) "Authority" means the Mississippi Major Economic Impact Authority created pursuant to the act.

(c) "Bonds" means general obligation bonds, interim notes and other evidences of debt of the State of Mississippi issued pursuant to this chapter.

(d) "Facility related to the project" means and includes any of the following, as the same may pertain to the project within the project area: (i) facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project; (ii) airports, airfields and air terminals; (iii) rail lines; (iv) port facilities; (v) highways, streets and other roadways; (vi) public school buildings, classrooms and instructional facilities, training facilities and equipment, including any functionally related facilities; (vii) parks, outdoor recreation facilities and athletic facilities; (viii) auditoriums, pavilions, campgrounds, art centers, cultural centers, folklore centers and other public facilities; (ix) health care facilities, public or private; and (x) fire protection facilities, equipment and elevated water tanks.

(e) "Person" means any natural person, corporation, association, partnership, limited liability company, receiver, trustee, guardian, executor, administrator, fiduciary, governmental unit, public agency, political subdivision, or any other group acting as a unit, and the plural as well as the singular.

(f) "Project" means:

(i) Any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise with an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United States government sources together with all buildings, and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise; or with an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or which creates at least one thousand (1,000) net new full-time jobs which provides an average salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state as determined by the Mississippi Department of Employment Security. "Project" shall include any addition to or expansion of an existing enterprise if such addition or expansion has an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United States government sources, or has an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the

enterprise and which creates at least one thousand (1,000) net new full-time jobs; or which creates at least one thousand (1,000) net new full-time jobs which provides an average salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state as determined by the Mississippi Department of Employment Security. "Project" shall also include any ancillary development or business resulting from the enterprise, of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial production, that the project area has been selected as the site for the ancillary development or business.

(ii)1. Any major capital project designed to improve, expand or otherwise enhance any active duty or reserve United States armed services bases and facilities or any major Mississippi National Guard training installations, their support areas or their military operations, upon designation by the authority that any such base was or is at risk to be recommended for closure or realignment pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, or other applicable federal law; or any major development project determined by the authority to be necessary to acquire or improve base properties and to provide employment opportunities through construction of projects as defined in Section 57-3-5, which shall be located on or provide direct support service or access to such military installation property in the event of closure or reduction of military operations at the installation.

2. Any major study or investigation related to such a facility, installation or base, upon a determination by the authority that the study or investigation is critical to the expansion, retention or reuse of the facility, installation or base.

3. Any project as defined in Section 57-3-5, any business or enterprise determined to be in the furtherance of the public purposes of this act as determined by the authority or any facility related to such project each of which shall be, directly or indirectly, related to any military base or other military-related facility no longer operated by the United States armed services or the Mississippi National Guard.

(iii) Any enterprise to be maintained, improved or constructed in Tishomingo County by or for a National Aeronautics and Space Administration facility in such county.

(iv)1. Any major capital project with an initial capital investment from private sources of not less than Seven Hundred Fifty Million Dollars ($750,000,000.00) which will create at least three thousand (3,000) jobs meeting criteria established by the Mississippi Development Authority.

2. "Project" shall also include any ancillary development or business resulting from an enterprise operating a project as defined in item 1 of this paragraph (f)(iv), of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial

production, that the state has been selected as the site for the ancillary development or business.

(v) Any manufacturing, processing or industrial project determined by the authority, in its sole discretion, to contribute uniquely and significantly to the economic growth and development of the state, and which meets the following criteria:

1. The project shall create at least two thousand (2,000) net new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law.

2. The project and any facility related to the project shall include a total investment from private sources of not less than Sixty Million Dollars ($60,000,000.00), or from any combination of sources of not less than Eighty Million Dollars ($80,000,000.00).

(vi) Any real property owned or controlled by the National Aeronautics and Space Administration, the United States government, or any agency thereof, which is legally conveyed to the State of Mississippi or to the State of Mississippi for the benefit of the Mississippi Major Economic Impact Authority, its successors and assigns pursuant to Section 212 of Public Law 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

(vii) Any major capital project related to the establishment, improvement, expansion and/or other enhancement of any active duty military installation and having a minimum capital investment from any source or combination of sources other than the State of Mississippi of at least Forty Million Dollars ($40,000,000.00), and which will create at least four hundred (400) military installation related full-time jobs, which jobs may be military jobs, civilian jobs or a combination of military and civilian jobs. The authority shall require that binding commitments be entered into requiring that the minimum requirements for the project provided for in this subparagraph shall be met not later than July 1, 2008.

(viii) Any major capital project with an initial capital investment from any source or combination of sources of not less than Ten Million Dollars ($10,000,000.00) which will create at least eighty (80) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred thirty-five percent (135%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(ix) Any regional retail shopping mall with an initial capital investment from private sources in excess of One Hundred Fifty Million Dollars ($150,000,000.00), with a square footage in excess of eight hundred thousand (800,000) square feet, which will create at least seven hundred (700) full-time jobs with an average hourly wage of Eleven Dollars ($11.00) per hour. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(x) Any major capital project with an initial capital investment from any source or combination of sources of not less than Seventy-five Million Dollars ($75,000,000.00) which will create at least one hundred twenty-five (125) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred thirty-five percent (135%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the greater. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xi) Any potential major capital project that the authority has determined is feasible to recruit.

(xii) Any project built according to the specifications and federal provisions set forth by the National Aeronautics and Space Administration Center Operations Directorate at Stennis Space Center for the purpose of consolidating common services from National Aeronautics and Space Administration centers in human resources, procurement, financial management and information technology located on land owned or controlled by the National Aeronautics and Space Administration, which will create at least four hundred seventy (470) full-time jobs.

(xiii) Any major capital project with an initial capital investment from any source or combination of sources of not less than Ten Million Dollars ($10,000,000.00) which will create at least two hundred fifty (250) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the

funds provided by the state for the project as determined by the authority shall be repaid.

(xiv) Any major pharmaceutical facility with a capital investment of not less than Fifty Million Dollars ($50,000,000.00) made after July 1, 2002, through four (4) years after the initial date of any loan or grant made by the authority for such project, which will maintain at least seven hundred fifty (750) full-time employees. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xv) Any pharmaceutical manufacturing, packaging and distribution facility with an initial capital investment from any local or federal sources of not less than Five Hundred Thousand Dollars ($500,000.00) which will create at least ninety (90) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xvi) Any major industrial wood processing facility with an initial capital investment of not less than One Hundred Million Dollars ($100,000,000.00) which will create at least one hundred twenty-five (125) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty Thousand Dollars ($30,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xvii) Any technical, engineering, manufacturing-logistic service provider with an initial capital investment of not less than One Million Dollars ($1,000,000.00) which will create at least ninety (90) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xviii) Any major capital project with an initial capital investment from any source or combination of sources other than the State of

Mississippi of not less than Six Hundred Million Dollars ($600,000,000.00) which will create at least four hundred fifty (450) full-time jobs with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Seventy Thousand Dollars ($70,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xix) Any major coal and/or petroleum coke gasification project with an initial capital investment from any source or combination of sources other than the State of Mississippi of not less than Eight Hundred Million Dollars ($800,000,000.00), which will create at least two hundred (200) full-time jobs with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Forty-five Thousand Dollars ($45,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xx) Any planned mixed use development located on not less than four thousand (4,000) acres of land that will consist of commercial, recreational, resort, tourism and residential development with a capital investment from private sources of not less than Four Hundred Seventy-five Million Dollars ($475,000,000.00) in the aggregate in any one (1) or any combination of tourism projects that will create at least three thousand five hundred (3,500) jobs in the aggregate. For the purposes of this paragraph (f)(xx), the term "tourism project" means and has the same definition as that term has in Section 57-28-1. In order to meet the minimum capital investment required under this paragraph (f)(xx), at least Two Hundred Thirty-seven Million Five Hundred Thousand Dollars ($237,500,000.00) of such investment must be made not later than June 1, 2015, and the remainder of the minimum capital investment must be made not later than June 1, 2017. In order to meet the minimum number of jobs required to be created under this paragraph (f)(xx), at least one thousand seven hundred fifty (1,750) of such jobs must be created not later than June 1, 2015, and the remainder of the jobs must be created not later than June 1, 2017. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the

funds provided by the state for the project as determined by the authority shall be repaid.

(xxi) Any enterprise owning or operating an automotive manufacturing and assembly plant and its affiliates for which construction begins after March 2, 2007, and not later than December 1, 2007, with an initial capital investment from private sources of not less than Five Hundred Million Dollars ($500,000,000.00) which will create at least one thousand five hundred (1,500) jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxii) Any enterprise owning or operating a major powertrain component manufacturing and assembly plant for which construction begins after May 11, 2007, and not later than December 1, 2007, with an initial capital investment from private sources of not less than Three Hundred Million Dollars ($300,000,000.00) which will create at least five hundred (500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual wages and taxable benefits of such jobs shall be at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxiii) Any biological and agricultural defense project operated by an agency of the government of the United States with an initial capital investment of not less than Four Hundred Fifty Million Dollars ($450,000,000.00) from any source other than the State of Mississippi and its subdivisions, which will create at least two hundred fifty (250) new full-time jobs. All jobs created by the project must be held by persons eligible for employment in the United States under applicable state and federal law.

(xxiv) Any enterprise owning or operating an existing tire manufacturing plant which adds to such plant capital assets of not less than Twenty-five Million Dollars ($25,000,000.00) after January 1, 2009, and that maintains at least one thousand two hundred (1,200) full-time jobs in this state at one (1) location with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Forty-five Thousand Dollars ($45,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxv) Any enterprise owning or operating a facility for the manufacture of composite components for the aerospace industry which will have an investment from private sources of not less than One Hundred Seventy-five Million Dollars ($175,000,000.00) by not later than December 31, 2015, and which will result in the full-time employment at the project site of not less than two hundred seventy-five (275) persons by December 31, 2011, and not less than four hundred twenty-five (425) persons by December 31, 2013, and not less than eight hundred (800) persons by December 31, 2017, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Fifty-three Thousand Dollars ($53,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxvi) Any enterprise owning or operating a facility for the manufacture of pipe which will have an investment from any source other than the State of Mississippi and its subdivisions of not less than Three Hundred Million Dollars ($300,000,000.00) by not later than December 31, 2015, and which will create at least five hundred (500) new full-time jobs within five (5) years after the start of commercial production and maintain such jobs for at least ten (10) years, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty-two Thousand Dollars ($32,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxvii) Any enterprise owning or operating a facility for the manufacture of solar panels which will have an investment from any source

other than the State of Mississippi and its subdivisions of not less than One Hundred Thirty-two Million Dollars ($132,000,000.00) by not later than December 31, 2015, and which will create at least five hundred (500) new full-time jobs within five (5) years after the start of commercial production and maintain such jobs for at least ten (10) years, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty-four Thousand Dollars ($34,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxviii)1. Any enterprise owning or operating an automotive parts manufacturing plant and its affiliates for which construction begins after June 1, 2013, and not later than June 30, 2014, with an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) which will create at least five hundred (500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual wages and taxable benefits of such jobs shall be at least one hundred ten percent (110%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

a. The minimum requirements for the project provided for in this subparagraph shall be met; and

b. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

2. It is anticipated that the project defined in this subparagraph (xxviii) will expand in three (3) additional phases, will create an additional five hundred (500) full-time jobs meeting the above criteria in each phase, and will invest an additional Three Hundred Million Dollars ($300,000,000.00) per phase.

(xxix) Any enterprise engaged in the manufacture of tires or other related rubber or automotive products for which construction of a plant begins after January 1, 2016, and is substantially completed no later than December 31, 2022, and for which such enterprise commits to an aggregate capital investment by such enterprise and its affiliates of not less than One Billion Four Hundred Fifty Million Dollars ($1,450,000,000.00)

and the creation thereby of at least two thousand five hundred (2,500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual salary or wage, excluding the value of any benefits which are not subject to Mississippi income tax, of such jobs shall be at least Forty Thousand Dollars ($40,000.00). The authority shall require that binding commitments be entered into requiring that:

1. Minimum requirements for investment and jobs for the project shall be met; and

2. If such requirements are not met, all or a portion of the funds provided by the state for the project may, as determined by the authority, be subject to repayment by such enterprise and/or its affiliates, together with any penalties or damages required by the authority in connection therewith.

(xxx) Any enterprise owning or operating a maritime fabrication and assembly facility for which construction begins after February 1, 2016, and concludes not later than December 31, 2018, with an initial capital investment in land, buildings and equipment not less than Sixty-eight Million Dollars ($68,000,000.00) and will create not less than one thousand (1,000) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Forty Thousand Dollars ($40,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. If such commitments are not met, all or a portion of the funds provided by the state for the project may, as determined by the authority, be subject to repayment by such enterprise, together with any penalties or damages required by the authority in connection therewith.

(xxxi) Each of the projects defined in this paragraph (f)(xxxi)1 and 2 that are undertaken by affiliated enterprises, together with any or all of the projects defined in this paragraph (f)(xxxi)3 and/or 4 if they are undertaken by the same or other enterprises affiliated with those enterprises that undertake projects defined in this paragraph (f)(xxxi)1 and 2:

1. An enterprise engaged in the manufacturing and production of recycled flat-rolled aluminum or related products for which construction of recycled aluminum flat-rolled mill begins after January 1, 2023, and is substantially completed no later than December 31, 2026; and

2. An enterprise engaged in the manufacturing and production of biocarbon from biomass for which construction of the biocarbon manu-

facturing facility begins after December 1, 2022, and is substantially completed no later than December 31, 2026; provided that such series of projects may additionally, but shall not be required to, include:

3. Any other affiliated enterprise that undertakes the development and operation of a new industrial or commercial facility in the state, excluding any area or areas designated by the authority in a written agreement between such enterprise or any affiliate thereof, for which the construction of any such facility begins after January 1, 2023, and is substantially completed no later than December 31, 2029; and/or

4. An enterprise engaged in the development and operation of port activities (e.g., the loading and unloading of barges, rail cars and trucks, the storage and handling of materials, and other port-related operations) in support of all or any of the enterprises enumerated in this paragraph (f)(xxxi)1, 2 and 3, or otherwise in support of an existing electric arc furnace steel mill producing flat-rolled steel and related products; and for which the parent enterprise of such affiliated enterprises enumerated in this paragraph (f)(xxxi)1, 2, 3 and/or 4 commits to an aggregate, collective capital investment by one or more or any combination of such enterprises and their affiliates, as well as by any co-located customers, of not less than Two Billion Five Hundred Million Dollars ($2,500,000,000.00) and the creation thereby of at least one thousand (1,000) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual salary or wage, excluding the value of any benefits which are not subject to Mississippi income tax, of such jobs shall be at least Ninety-three Thousand Dollars ($93,000.00). The authority shall require that binding commitments be entered into requiring that:

a. Minimum requirements for investment and jobs for such affiliated projects shall be met; and

b. If such requirements are not collectively met, all or a portion of the funds provided by the state for such affiliated projects may, as determined by the authority, be subject to repayment by such enterprises and/or their affiliates, together with any penalties or damages required by the authority in connection therewith.

For purposes of this paragraph (f)(xxxi), A. a co-located customer shall mean a person who locates and operates any new manufacturing, processing, warehousing and/or distribution facility within the project area for the project defined in this paragraph (f)(xxxi)1 and utilizes, directly or indirectly, in its operations any aluminum or related products produced by such project, and B. an affiliated enterprise or an affiliate means a related business entity which shares a common direct or indirect ownership with the enterprise owning or operating a project as defined in this paragraph (f)(xxxi)1, 2, 3 or 4. References in the act to a project, as defined by this

paragraph (f)(xxxi) shall mean any one of, any combination or all of the projects as defined in this paragraph (f)(xxxi)1, 2, 3 or 4.

(g)(i) "Project area" means the project site, together with any area or territory within the state lying within sixty-five (65) miles of any portion of the project site whether or not such area or territory be contiguous; however, for the project defined in paragraph (f)(iv) of this section the term "project area" means any area or territory within the state. The project area shall also include all territory within a county if any portion of such county lies within sixty-five (65) miles of any portion of the project site. "Project site" means the real property on which the principal facilities of the enterprise will operate. The provisions of this subparagraph (i) shall not apply to a project as defined in paragraph (f)(xxi) of this section.

(ii) For the purposes of a project as defined in paragraph (f)(xxi) of this section, the term "project area" means the acreage authorized in the certificate of convenience and necessity issued by the Mississippi Development Authority to a regional economic development alliance under Section 57-64-1 et seq.

(iii) For the purposes of a project as defined in paragraph (f)(xxxi)1 of this section, the term "project area" means the acreage specified by the authority in written agreement with the enterprise undertaking such project and/or an affiliate thereof.

(h) "Public agency" means:

(i) Any department, board, commission, institution or other agency or instrumentality of the state;

(ii) Any city, town, county, political subdivision, school district or other district created or existing under the laws of the state or any public agency of any such city, town, county, political subdivision or district or any other public entity created or existing under local and private legislation;

(iii) Any department, commission, agency or instrumentality of the United States of America; and

(iv) Any other state of the United States of America which may be cooperating with respect to location of the project within the state, or any agency thereof.

(i) "State" means State of Mississippi.

(j) "Fee-in-lieu" means a negotiated fee to be paid by the project in lieu of any franchise taxes imposed on the project by Chapter 13, Title 27, Mississippi Code of 1972. The fee-in-lieu shall not be less than Twenty-five Thousand Dollars ($25,000.00) annually. A fee-in-lieu may be negotiated with an enterprise operating an existing project defined in paragraph (f)(iv)1 of this section; however, a fee-in-lieu shall not be negotiated for other existing enterprises that fall within the definition of the term "project."

(k)(i) "Affiliate" means a subsidiary or related business entity which shares a common direct or indirect ownership with the enterprise owning or operating a project as defined in paragraph (f)(xxi), paragraph (f)(xxviii)

or paragraph (f)(xxix) of this section. The subsidiary or related business must provide services directly related to the core activities of the project.

(ii) For the purposes of a project as defined in paragraph (f)(xxxi) of this section, an "affiliated enterprise" or an "affiliate" means a related business entity which shares a common direct or indirect ownership with the enterprise owning or operating a project as defined in paragraph (f)(xxxi)1, 2, 3 or 4 of this section.

(*l*) "Tier One supplier" means a supplier of a project as defined in paragraph (f)(xxi) of this section that is certified by the enterprise owning the project and creates a minimum of fifty (50) new full-time jobs.

HISTORY: Laws, 1989, ch. 534, § 3; Laws, 1991, ch. 584, § 3; Laws, 1993, ch. 305, § 1; Laws, 1993, ch. 570, § 1; Laws, 1994, ch. 420, § 1; Laws, 1995, ch. 576, § 1; Laws, 1996, ch. 508, § 1; Laws, 1996, ch. 554, § 1; Laws, 1997, ch. 585, § 1; Laws, 2000, 2nd Ex Sess, ch. 1, § 42; Laws, 2000, 3rd Ex Sess, ch. 1, § 6; Laws, 2002, ch. 541, § 6; Laws, 2002, 1st Ex Sess, ch. 2, § 1; Laws, 2003, ch. 3, § 2; Laws, 2003, ch. 326, § 2; Laws, 2003, ch. 513, § 2; Laws, 2004, ch. 507, § 1; Laws, 2004, ch. 572, § 54; Laws, 2004, 3rd Ex Sess., § 91; Laws, 2005, ch. 315, § 1; Laws, 2006, ch. 538, § 7; Laws, 2006, 1st Ex Sess, ch. 2, § 1; Laws, 2007, ch. 303, § 1; Laws, 2007, 1st Ex Sess, ch. 1, § 1; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 54; Laws, 2008, 1st Ex Sess, ch. 45, § 1; Laws, 2009, ch. 302, § 1; Laws, 2009, ch. 303, § 1; Laws, 2009, ch. 464, § 1; Laws, 2010, ch. 301, § 1; Laws, 2010, ch. 405, § 1; reenacted without change, Laws, 2010, ch. 559, § 54; reenacted without change, Laws, 2011, ch. 471, § 55; reenacted without change, Laws, 2012, ch. 515, § 54; Laws, 2013, 1st Ex Sess, ch. 1, § 1; Laws, 2016, 1st Ex Sess, ch. 1, § 1, eff from and after passage (approved Feb. 8, 2016); brought forward without change, Laws, 2019, ch. 451, § 54, eff from and after passage (approved April 3, 2019); Laws, 2022, 1st Ex. Sess., ch. 1, § 1, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, in (e), inserted "limited liability company"; in (f), added (xxxi); in (g), added (iii); and in (k), added (ii), and designated the former provisions of the paragraph as (i).

§ 57-75-9. Action by authority on behalf of state; cooperation of public agencies with authority; contracts by authority or public agency.

(1) The authority is hereby designated and empowered to act on behalf of the state in submitting a siting proposal for any project eligible for assistance under this act. The authority is empowered to take all steps appropriate or necessary to effect the siting, development, and operation of the project within the state, including the negotiation of a fee-in-lieu. If the state is selected as the preferred site for the project, the authority is hereby designated and empowered to act on behalf of the state and to represent the state in the planning, financing, development, construction and operation of the project or any facility related to the project, with the concurrence of the affected public agency. The authority may take affirmative steps to coordinate fully all aspects of the submission of a siting proposal for the project and, if the state is selected

as the preferred site, to coordinate fully, with the concurrence of the affected public agency, the development of the project or any facility related to the project with private business, the United States government and other public agencies. All public agencies are encouraged to cooperate to the fullest extent possible to effectuate the duties of the authority; however, the development of the project or any facility related to the project by the authority may be done only with the concurrence of the affected public agency.

(2)(a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(iv)1 or any facility related to the project shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

(c) The enterprise involved with the project may, upon approval of the authority, negotiate such contracts in the name of the authority.

(d) The provisions of this subsection (2) shall not apply to contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project as defined in Section 57-75-5(f)(iv)1 and such contracts may be entered into pursuant to subsection (3) of this section.

(3)(a) Contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project defined in Section 57-75-5(f)(iv)1 shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority shall advertise for a period of time to be set by the authority, but in no event less than one (1) business day, the date, time and place of a meeting with the authority to receive specifications on a request for proposals on excavation, fill dirt and compaction for the preparation of the site of the project defined in Section 57-75-5(f)(iv)1.

(ii) The authority shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the authority concerning the selection of the contractor shall be final.

(b) Contracts by the authority or a public agency for site preparation, utilities, real estate improvements, wastewater or for public works for a

project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority or the public agency shall advertise for a period of time to be set by the authority or the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the authority or the public agency to receive specifications on the preparation of the site of the project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii).

(ii) The authority or the public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority or the public agency shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the authority or the public agency concerning the selection of the contractor shall be final.

(c) Contracts by a public agency for site preparation, utilities, real estate improvements, infrastructure, roads or for public works for a project defined in Section 57-75-5(f)(xxiii), Section 57-75-5(f)(xxix), Section 57-75-5(f)(xxx) or Section 57-75-5(f)(xxxi) may be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of contracts:

(i) The public agency shall advertise for a period of time to be set by the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the public agency to receive specifications on site preparation, utilities, real estate improvements, infrastructure, roads or for public works related to the project defined in Section 57-75-5(f)(xxiii), Section 57-75-5(f)(xxix), Section 57-75-5(f)(xxx) or Section 57-75-5(f)(xxxi).

(ii) The public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the public agency shall, in its discretion, which discretion may include participation by an enterprise involved in the project, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the public agency concerning selection of the contractor shall be final.

(4)(a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(xxvi), Section 57-75-5(f)(xxvii), Section 57-75-5(f)(xxviii), Section 57-75-5(f)(xxix), Section 57-75-5(f)(xxx) or Section 57-75-5(f)(xxxi) shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation with the authority or such public agency, and the authority or such public agency may, as part of such negotiations, further negotiate and require the level of participation by the enterprise involved in the project in the negotiation of such contracts.

(c) The company shall make commercially reasonable efforts to place out for bid, such that Mississippi Contractors and Mississippi Disadvantaged Business Enterprises ("DBEs") shall have an equal opportunity to respond to such bid, any contract by the company which (i) is subject to tax pursuant to Mississippi Code Section 27-65-21 (i.e., contracts for constructing, building, erecting, grading, excavating, etc.), and (ii) will be paid, or payment thereunder by the company will be reimbursed, using any portion of the grant proceeds or funds provided by the authority to the company in accordance with this agreement. In carrying out such efforts, in order to increase the pool of qualified DBE bidders, the company will request that successful prime contract bidders include in their response a commitment to (a) participate in and/or host forums that highlight subcontract bidding opportunities for DBEs; and (b) work with various trade associations and the Mississippi Development Authority to promote increased participation from DBEs. With respect to awarding any contract placed out for bid, the company shall be allowed to award such contract in the company's sole discretion (e.g., based upon optimization of quality, cost and efficiency or on any other basis as the company may see fit). MDA agrees that it will offer to eligible contractor DBEs that have an opportunity to work on the project assistance through its Minority Surety Bond Guaranty Program.

HISTORY: Laws, 1989, ch. 534, § 5; Laws, 2000, 2nd Ex Sess, ch. 1, § 43; Laws, 2000, 3rd Ex Sess, ch. 1, § 7; Laws, 2007, ch. 303, § 2; Laws, 2007, 1st Ex Sess, ch. 1, § 2; Laws, 2008, 1st Ex Sess, ch. 45, § 2; Laws, 2010, ch. 301, § 2; Laws, 2010, ch. 405, § 2; Laws, 2013, 1st Ex Sess, ch. 1, § 2; Laws, 2016, 1st Ex Sess, ch. 1, § 2, eff from and after passage (approved Feb. 8, 2016); Laws, 2022, 1st Ex. Sess., ch. 1, § 2, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, in (3)(c), (3)(c)(i) and (4)(a), inserted "or Section 57-75-5(f)(xxxi)" and made related changes.

§ 57-75-11. General powers and duties of authority.

The authority, in addition to any and all powers now or hereafter granted to it, is empowered and shall exercise discretion and the use of these powers depending on the circumstances of the project or projects:

(a) To maintain an office at a place or places within the state.

(b) To employ or contract with architects, engineers, attorneys, accountants, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix and pay their compensation.

(c) To make such applications and enter into such contracts for financial assistance as may be appropriate under applicable federal or state law.

(d) To apply for, accept and utilize grants, gifts and other funds or aid from any source for any purpose contemplated by the act, and to comply, subject to the provisions of this act, with the terms and conditions thereof.

(e)(i) To acquire by purchase, lease, gift, or in other manner, including quick-take eminent domain, or obtain options to acquire, and to own, maintain, use, operate and convey any and all property of any kind, real, personal, or mixed, or any interest or estate therein, within the project area, necessary for the project or any facility related to the project. The provisions of this paragraph that allow the acquisition of property by quick-take eminent domain shall be repealed by operation of law on July 1, 1994; and

(ii) Notwithstanding any other provision of this paragraph (e), from and after November 6, 2000, to exercise the right of immediate possession pursuant to the provisions of Sections 11-27-81 through 11-27-89 for the purpose of acquiring land, property and/or rights-of-way in the county in which a project as defined in Section 57-75-5(f)(iv)1 is located, that are necessary for such project or any facility related to the project.

(f) To acquire by purchase or lease any public lands and public property, including sixteenth section lands and lieu lands, within the project area, which are necessary for the project. Sixteenth section lands or lieu lands acquired under this act shall be deemed to be acquired for the purposes of industrial development thereon and such acquisition will serve a higher public interest in accordance with the purposes of this act.

(g) If the authority identifies any land owned by the state as being necessary, for the location or use of the project, or any facility related to the project, to recommend to the Legislature the conveyance of such land or any interest therein, as the Legislature deems appropriate.

(h) To make or cause to be made such examinations and surveys as may be necessary to the planning, design, construction and operation of the project.

(i) From and after the date of notification to the authority by the enterprise that the state has been finally selected as the site of the project, to acquire by condemnation and to own, maintain, use, operate and convey or otherwise dispose of any and all property of any kind, real, personal or mixed, or any interest or estate therein, within the project area, necessary for the project or any facility related to the project, with the concurrence of the affected public agency, and the exercise of the powers granted by this act, according to the procedures provided by Chapter 27, Title 11, Mississippi Code of 1972, except as modified by this act.

(i) Except as otherwise provided in subparagraph (iii) of this paragraph (i), in acquiring lands by condemnation, the authority shall not

acquire minerals or royalties in minerals unless a competent registered professional engineer shall have certified that the acquisition of such minerals and royalties in minerals is necessary for purposes of the project; provided that limestone, clay, chalk, sand and gravel shall not be considered as minerals for the purposes of subparagraphs (i) and (ii) of this paragraph (i);

(ii) Unless minerals or royalties in minerals have been acquired by condemnation or otherwise, no person or persons owning the drilling rights or the right to share in production of minerals shall be prevented from exploring, developing, or producing oil or gas with necessary rights-of-way for ingress and egress, pipelines and other means of transporting interests on any land or interest therein of the authority held or used for the purposes of this act; but any such activities shall be under such reasonable regulation by the authority as will adequately protect the project contemplated by this act as provided in paragraph (r) of this section; and

(iii) In acquiring lands by condemnation, including the exercise of immediate possession, for a project, as defined in Section 57-75-5(f)(iv)1, the authority may acquire minerals or royalties in minerals.

(j) To negotiate the necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is paid to the owners thereof or agreement is had with such owners regarding the payment of the cost of such relocation, and to acquire by condemnation or otherwise easements or rights-of-way for such relocation or rerouting and to convey the same to the owners of the facilities being relocated or rerouted in connection with the purposes of this act.

(k) To negotiate the necessary relocation of graves and cemeteries and to pay all reasonable costs thereof.

(*l*) To perform or have performed any and all acts and make all payments necessary to comply with all applicable federal laws, rules or regulations including, but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651 to 4655) and relocation rules and regulations promulgated by any agency or department of the federal government.

(m) To construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate any and all components of the project or any facility related to the project, with the concurrence of the affected public agency, within the project area, necessary to the project and to the exercise of such powers, rights, and privileges granted the authority.

(n) To incur or defray any designated portion of the cost of any component of the project or any facility related to the project acquired or constructed by any public agency.

(o)(i) To lease, sell or convey any or all property acquired by the authority under the provisions of this act to the enterprise, its successors

or assigns, and/or any entity for purposes in furtherance of economic development as determined by the authority, and in connection therewith to pay the costs of title search, perfection of title, title insurance and recording fees as may be required. The authority may provide in the instrument conveying such property a provision that such property shall revert to the authority if, as and when the property is declared by the transferee to be no longer needed.

(ii) To lease, sell, transfer or convey on any terms agreed upon by the authority any or all real and personal property, improvements, leases, funds and contractual obligations of a project as defined in Section 57-75-5(f)(vi) and conveyed to the State of Mississippi by a Quitclaim Deed from the United States of America dated February 23, 1996, filed of record at pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office, Tishomingo County, Mississippi, to any governmental authority located within the geographic boundaries of the county wherein such project exists upon agreement of such governmental authority to undertake and assume from the State of Mississippi all obligations and responsibilities in connection with ownership and operation of the project. Property leased, sold, transferred or otherwise conveyed by the authority under this paragraph (o) shall be used only for economic development purposes.

(p) To enter into contracts with any person or public agency, including, but not limited to, contracts authorized by Section 57-75-17, in furtherance of any of the purposes authorized by this act upon such consideration as the authority and such person or public agency may agree. Any such contract may extend over any period of time, notwithstanding any rule of law to the contrary, may be upon such terms as the parties thereto shall agree, and may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of such bonds, and all other obligations specified therein are paid or terminated. Any such contract shall be binding upon the parties thereto according to its terms. Such contracts may include an agreement to reimburse the enterprise, its successors and assigns for any assistance provided by the enterprise in the acquisition of real property for the project or any facility related to the project.

(q) To establish and maintain reasonable rates and charges for the use of any facility within the project area owned or operated by the authority, and from time to time, to adjust such rates and to impose penalties for failure to pay such rates and charges when due.

(r) To adopt and enforce with the concurrence of the affected public agency all necessary and reasonable rules and regulations to carry out and effectuate the implementation of the project and any land use plan or zoning classification adopted for the project area, including, but not limited to, rules, regulations, and restrictions concerning mining, construction, excavation or any other activity the occurrence of which may endanger the structure or operation of the project. Such rules may be enforced within the project area and without the project area as necessary to protect the structure and operation of the project. The authority is authorized to plan or

replan, zone or rezone, and make exceptions to any regulations, whether local or state, with the concurrence of the affected public agency which are inconsistent with the design, planning, construction or operation of the project and facilities related to the project.

(s) To plan, design, coordinate and implement measures and programs to mitigate impacts on the natural environment caused by the project or any facility related to the project.

(t) To develop plans for technology transfer activities to ensure private sector conduits for exchange of information, technology and expertise related to the project to generate opportunities for commercial development within the state.

(u) To consult with the State Department of Education and other public agencies for the purpose of improving public schools and curricula within the project area.

(v) To consult with the State Board of Health and other public agencies for the purpose of improving medical centers, hospitals and public health centers in order to provide appropriate health care facilities within the project area.

(w) To consult with the Office of Minority Business Enterprise Development and other public agencies for the purpose of developing plans for technical assistance and loan programs to maximize the economic impact related to the project for minority business enterprises within the State of Mississippi.

(x) To deposit into the "Yellow Creek Project Area Fund" created pursuant to Section 57-75-31:

(i) Any funds or aid received as authorized in this section for the project described in Section 57-75-5(f)(vi), and

(ii) Any funds received from the sale or lease of property from the project described in Section 57-75-5(f)(vi) pursuant to the powers exercised under this section.

(y) To manage and develop the project described in Section 57-75-5(f)(vi).

(z) To promulgate rules and regulations necessary to effectuate the purposes of this act.

(aa) To negotiate a fee-in-lieu with the owners of the project.

(bb) To enter into contractual agreements to warrant any site work for a project defined in Section 57-75-5(f)(iv)1; provided, however, that the aggregate amount of such warranties shall not exceed Fifteen Million Dollars ($15,000,000.00).

(cc) To provide grant funds to an enterprise operating a project defined in Section 57-75-5(f)(iv)1 in an amount not to exceed Thirty-nine Million Dollars ($39,000,000.00).

(dd)(i) To own surface water transmission lines constructed with the proceeds of bonds issued pursuant to this act and in connection therewith to purchase and provide water to any project defined in Section 57-75-5(f)(iv) and to certificated water providers; and

(ii) To lease such surface water transmission lines to a public agency or public utility to provide water to such project and to certificated water providers.

(ee) To provide grant funds to an enterprise operating a project defined in Section 57-75-5(f)(v) or, in connection with a facility related to such a project, for job training, recruiting and infrastructure.

(ff) To enter into negotiations with persons proposing projects defined in Section 57-75-5(f)(xi) and execute acquisition options and conduct planning, design and environmental impact studies with regard to such project.

(gg) To establish such guidelines, rules and regulations as the authority may deem necessary and appropriate from time to time in its sole discretion, to promote the purposes of this act.

(hh) In connection with projects defined in Section 57-75-5(f)(ii):

(i) To provide grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii) in amounts not to exceed the amount authorized in Section 57-75-15(3)(b);

(ii) To supervise the use of all such grant funds or loans; and

(iii) To requisition money in the Mississippi Major Economic Impact Authority Revolving Loan Fund in connection with such loans.

(ii) In connection with projects defined under Section 57-75-5(f)(xiv):

(i) To provide grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv); however, the aggregate amount of any such loans under this paragraph (ii) shall not exceed Eighteen Million Dollars ($18,000,000.00) and the aggregate amount of any such grants under this paragraph (ii) shall not exceed Six Million Dollars ($6,000,000.00);

(ii) To supervise the use of all such grant funds or loans; and

(iii) Notwithstanding any provision of this act to the contrary, such loans shall be for a term not to exceed twenty (20) years as may be determined by the authority, shall bear interest at such rates as may be determined by the authority, shall, in the sole discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(jj) In connection with projects defined under Section 57-75-5(f)(xviii):

(i) To provide grant funds of Twenty-five Million Dollars ($25,000,000.00) to an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii) to be used for real estate improvements and which may be disbursed as determined by the authority;

(ii) To provide loans to an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii) or make payments to a lender providing financing to the enterprise; subject to the following provisions:

1. Not more than Ten Million Dollars ($10,000,000.00) may be loaned to such an enterprise for the purpose of defraying costs incurred by the enterprise for site preparation and real property improvements during the construction of the project in excess of budgeted costs; however, the amount of any such loan shall not exceed fifty percent (50%) of such excess costs;

2. Not more than Sixty Million Dollars ($60,000,000.00) may be loaned to such an enterprise or paid to a lender providing financing to the enterprise for purposes determined appropriate by the authority, and the enterprise shall be obligated to repay the amount of the loan or payment plus any expenses incurred by the state as a result of the issuance of bonds pursuant to Section 57-75-15(3)(p); however, no such loan or payment may be made before the beginning of the fifth year after issuance by the enterprise of debt in like amount the proceeds of which are to be used in connection with the project;

(iii) To supervise the use of all such loan funds;

(iv) Loans under this paragraph (jj) may be for any term determined appropriate by the authority provided that the payments on any loan must be in an amount sufficient to pay the state's debt service on bonds issued for the purpose of providing funds for such a loan; and

(v) The repayment obligation of the enterprise for any loan or payment authorized under this paragraph (jj) shall, in the discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(kk) In connection with projects defined in Section 57-75-5(f)(xxi) or a facility related to such a project:

(i) To provide grant funds to reimburse public agencies, Itawamba Community College, Northeast Mississippi Community College, and/or East Mississippi Community College, public or private nonprofits or an enterprise owning or operating a project as defined in Section 57-75-5(f)(xxi) for site preparation, real estate improvements, utilities, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(s);

(ii) To supervise the use of all such grant funds so reimbursed; and

(iii) To enter into contractual agreements to warrant site preparation and availability for a project defined in Section 57-75-5(f)(xxi).

(*ll*) In connection with a project related to a Tier One supplier:

(i) To provide grant funds to reimburse public agencies, public or private nonprofits and Tier One suppliers for site preparation, real estate improvements, utilities, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(t);

(ii) To supervise the use of all such grant funds so reimbursed.

(mm) In connection with projects defined in Section 57-75-5(f)(xxii) or a facility related to such a project:

(i) To provide grant funds to reimburse public agencies or an enterprise owning or operating a project as defined in Section 57-75-5(f)(xxii) for site preparation, real estate improvements, utilities, fire protection, wastewater, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(u); and

(ii) To supervise the use of all such grant funds so reimbursed.

(nn) It is the policy of the authority and the authority is authorized to accommodate and support any enterprise owning or operating a project defined in Section 57-75-5(f)(xviii), 57-75-5(f)(xxi), 57-75-5(f)(xxii), 57-75-5(f)(xxvi), 57-75-5(f)(xxvii), 57-75-5(f)(xxviii), 57-75-5(f)(xxix), 57-75-5(f)(xxx) or Section 57-75-5(f)(xxxi) or an enterprise developing or owning a project defined in Section 57-75-5(f)(xx), that wishes to have a program of diversity in contracting, and/or that wishes to do business with or cause its prime contractor to do business with Mississippi companies, including those companies that are small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this paragraph.

(oo) To provide grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx) for reimbursement of costs incurred by such enterprise for infrastructure improvements in the initial phase of development of the project, upon dedication of such improvements to the appropriate public agency.

(pp) In connection with projects defined in Section 57-75-5(f)(xxiii):

(i) To provide grant funds to reimburse public agencies or an enterprise operating a project as defined in Section 57-75-5(f)(xxiii) for site preparation, utilities, real estate improvements, infrastructure, roads, public works, job training and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(v); and

(ii) To supervise the use of all such grant funds so reimbursed.

(qq)(i) To provide grant funds for the expansion of a publicly owned building for the project defined in Section 57-75-5(f)(xxiv) or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xxiv) for the purchase and/or relocation of equipment, or for any other purpose related to the project as approved by the authority; however, the aggregate amount of any such loans under this paragraph (qq) shall not exceed Six Million Dollars ($6,000,000.00) and the aggregate amount of any such grants under this paragraph (qq) shall not exceed Seven Million Dollars ($7,000,000.00);

(ii) To supervise the use of all such grant funds or loans; and

(iii) Notwithstanding any provision of this act to the contrary, such loans shall be for a term not to exceed ten (10) years as may be determined by the authority, shall bear a rate of interest to be determined by the authority, and shall be secured in an amount and a manner as may be determined by the authority.

(rr)(i) To provide grant funds to an enterprise owning or operating a project defined in Section 57-75-5(f)(xxv) for reimbursement of costs

incurred by the enterprise in reconfiguring the manufacturing plant and for the purchase of equipment, or for any other purpose related to the project as approved by the authority;

(ii) To supervise the use of all such grant funds.

(ss) In connection with projects defined under Section 57-75-5(f)(xxvi):

(i) To provide grant funds and/or loans to a public agency in an amount not to exceed Fifteen Million Dollars ($15,000,000.00) for the construction of a publicly owned building to be leased by the enterprise owning or operating the project;

(ii) To provide loan guarantees in an amount not to exceed the total cost of the project for which financing is sought or Twenty Million Dollars ($20,000,000.00), whichever is less, for the purpose of encouraging the extension of conventional financing and the issuance of letters of credit to the enterprise owning or operating the project;

(iii) In connection with any loan guarantee made pursuant to this paragraph, to make payments to lenders providing financing to the enterprise owning or operating the project and the enterprise shall be obligated to repay the amount of the payment plus any expenses incurred by the state as a result of the issuance of bonds pursuant to Section 57-75-15(3)(y);

(iv) To supervise the use of all such grant funds, loan funds or payments; and

(v) To require the enterprise owning or operating the project to provide security for the repayment obligation for any loan guarantee authorized under this paragraph in an amount and in a manner as may be determined by the authority.

(tt) In connection with projects defined under Section 57-75-5(f)(xxvii):

(i) To provide loans to a public agency in an amount not to exceed Fifty Million Dollars ($50,000,000.00) for the construction of a publicly owned building and acquisition of equipment to be leased by the enterprise owning or operating the project; and

(ii) To supervise the use of all such loan funds.

(uu) In connection with projects defined under Section 57-75-5(f)(xxviii):

(i) To provide grant funds to reimburse public agencies or an enterprise operating a project for site preparation, utilities, real estate purchase and improvements, infrastructure, roads, rail improvements, public works, job training and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(aa);

(ii) To supervise the use of all such grant funds so reimbursed.

(vv) In connection with projects defined under Section 57-75-5(f)(xxix):

(i) To provide grant funds to reimburse or otherwise defray the costs incurred by public agencies or an enterprise operating a project for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, buildings and fixtures, job recruitment and training, as well as planning,

design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(bb);

(ii) To provide loans to public agencies for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, buildings and fixtures, job recruiting and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(bb);

(iii) To supervise the use of all such grant funds so reimbursed and/or loans so made; and

(iv) To the extent that the authority enters into any construction or similar contract for site preparation work or for the construction of any improvements on a project site, to assign or otherwise transfer to an enterprise or affiliate thereof that owns or operates such a project on such project site any and all contractual, express or implied warranties of any kind arising from such contract or work performed or materials purchased in connection therewith, and cause any such contract to contain terms and provisions designating such enterprise as a third-party beneficiary under the contract.

(ww) In connection with projects defined under Section 57-75-5(f)(xxx):

(i) To provide grant funds to reimburse or otherwise defray the costs incurred by public agencies or an enterprise operating a project for public infrastructure needs, site preparation, building improvements, purchase of launch systems, recruitment of employees to fill new full-time jobs, providing internal company training and train prospective, new and existing employees of the enterprise associated with the project, including training of company employees who will utilize such instruction to teach other prospective, new and existing employees of the company and other workforce expenses and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(cc); and

(ii) To supervise the use of all such grant funds so reimbursed.

(xx) In connection with projects defined under Section 57-75-5(f)(xxxi):

(i) To provide grant funds to reimburse or otherwise defray the costs incurred by public agencies or any enterprise operating one or more such projects for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, utilities, roads, rail improvements, public works, buildings and fixtures, job recruitment and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(dd);

(ii) To provide loans to public agencies for site preparation, utilities, real estate purchases, purchase options and improvements, infrastruc-

ture, roads, rail improvements, public works, buildings and fixtures, job recruiting and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(dd);

(yy)(i) In connection with projects defined under Section 57-75-5(f)(xxxi), the authority is further authorized to provide to the enterprises operating one or more of the projects, an annual grant in an amount not to exceed three and one-half percent (3.5%) of the additional payroll for a period of ten (10) consecutive years. Each such aggregate annual grant amount shall be remitted to one or more of the enterprises and/or one or more of their affiliates, in such sub-amounts as the enterprises shall collectively direct, or that their common direct or indirect parent company shall direct, in writing, to the authority each year during such ten-year period. The ten-year period for the series of ten (10) annual grants authorized by this paragraph (yy) shall commence no later than January 1, 2029.

(ii) In the event that the annual number of full-time jobs maintained or caused to be maintained by the enterprises operating one or more projects and/or one or more affiliates thereof falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprises and/or any affiliate thereof for one or more years, the annual grant authorized by this paragraph (yy) may be reduced or suspended by the authority until the first calendar year during which the annual number of full-time jobs maintained or caused to be maintained by the enterprises and/or their affiliates reaches the minimum annual number of full-time jobs required by the authority pursuant to the written agreement.

(iii) The annual grants authorized by this paragraph (yy) may be funded from the proceeds of bonds issued pursuant to Section 57-75-15(3)(dd); provided that the aggregate amount of the annual grants over the entire ten-year period shall not exceed Forty-five Million Dollars ($45,000,000.00);

(iv) For purposes of this paragraph (yy):

1. "Additional payroll" shall mean the sum of the annual payroll amount (i.e., all annual employee income that is subject to State of Mississippi and/or federal income taxation) for any calendar year beginning January 1, 2023, which is associated with full-time jobs created and maintained by all enterprises that undertake any project and/or by any affiliates thereof, in excess of the amount the annualized payroll (i.e., all annual employee income that is subject to State of Mississippi and/or federal income taxation), which is associated with employees employed in the State of Mississippi by such enterprises or their affiliates as of September 30, 2022; and

2. "Base payroll level" shall mean the annualized payroll amount (i.e., all annual employee income that is subject to State of Mississippi

and/or federal income taxation) paid to employees employed in the State of Mississippi by all enterprises that undertake any project and/or by any affiliates thereof during the twelve-month period ending on September 30, 2022.

(v) The Mississippi Development Authority may promulgate rules and regulations necessary to administer the provisions of this paragraph (yy) and may otherwise administer and prescribe rules and restrictions with respect to the annual grant authorized by this paragraph (yy) pursuant to a written agreement between the authority and any enterprises operating one or more projects and/or any affiliate thereof.

(zz)(i) In addition to any other requirements or conditions under this chapter, the authority shall require that any application required by the authority for assistance regarding a project under this chapter include, at a minimum:

1. A two-year business plan (which shall include pro forma balance sheets, income statements and monthly cash flow statements);

2. Financial statements or tax returns for the three (3) years immediately prior to the application (if the project is a new company or enterprise, personal financial statements or tax returns will be required);

3. Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the project;

4. Data supporting the expertise of the project's principals;

5. A cost-benefit analysis of the project performed by a state institution of higher learning or other entity selected by the authority; and

6. Any other information required by the authority.

(ii) The authority shall require that binding commitments be entered into requiring that:

1. The applicable minimum requirements of this chapter and such other requirements as the authority considers proper shall be met; and

2. If the agreed upon commitments are not met, all or a portion of the funds provided under this chapter as determined by the authority shall be repaid.

(iii) Where appropriate, in the discretion of the authority, the authority shall acquire a security interest in or other lien upon any applicable collateral.

(iv) The provisions of this paragraph (xx) shall not apply to a project defined in Section 57-75-5(f)(xxiii).

HISTORY: Laws, 1989, ch. 534, § 6; Laws, 1993, ch. 305, § 2; Laws, 1996, ch. 554 § 2; Laws, 2003, ch. 326, § 3; Laws, 2003, ch. 441, § 1; Laws, 2003, ch. 513, § 3; Laws, 2004, 3rd Ex Sess., ch. 1, § 92; Laws, 2005, ch. 315, § 2; Laws, 2005, 4th Ex Sess, ch. 1, § 1; Laws, 2005, 5th Ex Sess, ch. 1, § 1; Laws, 2006, 1st Ex Sess, ch. 2, § 2; Laws, 2007, ch. 303, § 3; Laws, 2007, 1st Ex Sess, ch. 1, § 3; Laws, 2008, 1st Ex Sess, ch. 45, § 3; Laws, 2009, ch. 302, § 2; Laws, 2009, ch. 303, § 2; Laws, 2010, ch. 301, § 3; Laws, 2010, ch. 405, § 3; Laws, 2012, ch. 438, § 1; Laws, 2013, 1st Ex

Sess, ch. 1, § 3; Laws, 2016, 1st Ex Sess, ch. 1, § 3, eff from and after passage (approved Feb. 8, 2016); Laws, 2022, 1st Ex. Sess., ch. 1, § 3, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, in (nn), inserted "or Section 57-75-5(f)(xxxi)" and made a related change; added (xx) and (yy); redesignated former (xx) as present (zz), and therein inserted "required by the authority" in (i).

§ 57-75-15. Powers and duties of State Bond Commission.

[Through June 30, 2025, this section shall read as follows:]

(1) Upon notification to the authority by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the authority as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the authority may thereafter, from time to time, declare the necessity for the issuance of general obligation bonds as authorized by this section and forward such declaration to the State Bond Commission, provided that before such notification, the authority may enter into agreements with the United States government, private companies and others that will commit the authority to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the authority, the State Bond Commission shall verify that the state has been selected as the site of the project and shall act as the issuing agent for the series of bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3)(a) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(i) shall not exceed an aggregate principal amount in the sum of Sixty-seven Million Three Hundred Fifty Thousand Dollars ($67,350,000.00).

(b) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(ii) shall not exceed Seventy-seven Million Dollars ($77,000,000.00). The authority, with the express direction of the State Bond Commission, is authorized to expend any remaining proceeds of bonds issued under the authority of this act prior to January 1, 1998, for the purpose of financing projects as then defined in Section 57-75-5(f)(ii) or for any other projects as defined in Section 57-75-5(f)(ii), as it may be amended from time to time. No bonds shall be issued under this paragraph (b) until the State Bond Commission by resolution adopts a finding that the issuance of such bonds will improve, expand or otherwise enhance the military installation, its support areas or military operations, or will provide employment opportunities to replace those lost by closure or reductions in operations at the military installation or will support critical studies or investigations authorized by Section 57-75-5(f)(ii).

(c) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(iii) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after December 31, 1996.

(d) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(iv) shall not exceed Three Hundred Fifty-one Million Dollars ($351,000,000.00). An additional amount of bonds in an amount not to exceed Twelve Million Five Hundred Thousand Dollars ($12,500,000.00) may be issued under the authority of this section for the purpose of defraying costs associated with the construction of surface water transmission lines for a project defined in Section 57-75-5(f)(iv) or for any facility related to the project. No bonds shall be issued under this paragraph after June 30, 2005.

(e) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(v) and for facilities related to such projects shall not exceed Thirty-eight Million Five Hundred Thousand Dollars ($38,500,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(f) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(vii) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2006.

(g) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(viii) shall not exceed Four Million Five Hundred Thousand Dollars ($4,500,000.00). No bonds shall be issued under this paragraph after June 30, 2008.

(h) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(ix) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2007.

(i) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(x) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(j) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xii) shall not exceed Thirty-three Million Dollars ($33,000,000.00). The amount of bonds that may be issued under this paragraph for projects defined in Section 57-75-5(f)(xii) may be reduced by the amount of any federal or local funds made available for such projects. No bonds shall be issued under this paragraph until local governments in or near the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Five Hundred Thousand Dollars ($2,500,000.00) in the aggregate; however, this irrevocable commitment requirement may be waived by the authority upon a finding that due to the unforeseen circumstances created by Hurricane Katrina, the local governments are unable to comply with such commitment. No bonds shall be issued under this paragraph after June 30, 2008.

(k) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiii) shall not exceed Three Million Dollars

($3,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(*l*) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiv) shall not exceed Twenty-four Million Dollars ($24,000,000.00). No bonds shall be issued under this paragraph until local governments in the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Dollars ($2,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(m) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xv) shall not exceed Five Hundred Thousand Dollars ($500,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(n) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvi) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(o) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvii) shall not exceed Three Million Five Hundred Thousand Dollars ($3,500,000.00). No bonds shall be issued under this paragraph after June 30, 2010.

(p) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xviii) shall not exceed Ninety-six Million Dollars ($96,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(q) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xix) shall not exceed Fifteen Million Dollars ($15,000,000.00). No bonds shall be issued under this paragraph after June 30, 2012.

(r) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xx) shall not exceed Twenty-three Million Dollars ($23,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(s) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxi) shall not exceed Two Hundred Ninety-three Million Nine Hundred Thousand Dollars ($293,900,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(t) Bonds issued under the authority of this section for Tier One suppliers shall not exceed Thirty Million Dollars ($30,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(u) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxii) shall not exceed Forty-eight Million Four Hundred Thousand Dollars ($48,400,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(v) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiii) shall not exceed Eighty-eight Million Two Hun-

dred Fifty Thousand Dollars ($88,250,000.00). No bonds shall be issued under this paragraph after July 1, 2009.

(w) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiv) shall not exceed Thirteen Million Dollars ($13,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(x) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxv) shall not exceed Twenty-five Million Dollars ($25,000,000.00). No bonds shall be issued under this paragraph after July 1, 2017.

(y) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvi) shall not exceed Thirty-five Million One Hundred Thousand Dollars ($35,100,000.00). No bonds shall be issued under this paragraph after July 1, 2021.

(z) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvii) shall not exceed Fifty Million Dollars ($50,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(aa) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxviii) shall not exceed One Hundred Thirty Million Dollars ($130,000,000.00). No bonds shall be issued under this paragraph after July 1, 2023.

(bb) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxix) shall not exceed Two Hundred Sixty-three Million Dollars ($263,000,000.00). No bonds shall be issued under this paragraph after July 1, 2034.

(cc) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxx) shall not exceed Eleven Million Dollars ($11,000,000.00). No bonds shall be issued under this paragraph after July 1, 2025.

(dd) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxxi) shall not exceed Two Hundred Forty-six Million Seven Hundred Ninety-eight Thousand Five Hundred Fifty Dollars ($246,798,550.00); however, the total amount of bonds that may be issued under the authority of this section for projects defined in Section 57-75-5(f)(xxxi) shall be reduced by the amount of any other funds authorized by the Legislature during the 2022 First Extraordinary Session specifically for such projects. No bonds shall be issued under this paragraph after July 1, 2040.

(4)(a) The proceeds from the sale of the bonds issued under this section may be applied for the following purposes:

(i) Defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement, relocation and with respect to state-owned property, operation and maintenance of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-

way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts and environmental impact studies;

(ii) Defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity;

(iii) Reimbursing the Mississippi Development Authority for expenses it incurred in regard to projects defined in Section 57-75-5(f)(iv) prior to November 6, 2000. The Mississippi Development Authority shall submit an itemized list of expenses it incurred in regard to such projects to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(iv) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(iv)1;

(v) Paying any warranty made by the authority regarding site work for a project defined in Section 57-75-5(f)(iv)1;

(vi) Defraying the cost of marketing and promotion of a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall submit an itemized list of costs incurred for marketing and promotion of such project to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(vii) Providing for the payment of interest on the bonds;

(viii) Providing debt service reserves;

(ix) Paying underwriters' discount, original issue discount, accountants' fees, engineers' fees, attorneys' fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds;

(x) For purposes authorized in paragraphs (b) and (c) of this subsection (4);

(xi) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(v), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xii) Providing grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii);

(xiii) Providing grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv);

(xiv) Providing grants, loans and payments to or for the benefit of an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii);

(xv) Purchasing equipment for a project defined in Section 57-75-5(f)(viii) subject to such terms and conditions as the authority considers necessary and appropriate;

(xvi) Providing grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx);

(xvii) Providing grants and loans for projects as authorized in Section 57-75-11(kk), (ll), (mm), (uu), (vv) or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xviii) Providing grants for projects as authorized in Section 57-75-11(pp) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xix) Providing grants and loans for projects as authorized in Section 57-75-11(qq);

(xx) Providing grants for projects as authorized in Section 57-75-11(rr);

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss);

(xxii) Providing grants and loans as authorized in Section 57-75-11(tt);

(xxiii) Providing grants as authorized in Section 57-75-11(ww) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate; and

(xxiv) Providing loans, grants and other funds as authorized in Sections 57-75-11(xx) and 57-75-11(yy) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate.

Such bonds shall be issued, from time to time, and in such principal amounts as shall be designated by the authority, not to exceed in aggregate principal amounts the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued under this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(b)(i) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (b)(i) shall not exceed Three Hundred Thousand Dollars ($300,000.00) in the aggregate. Reimbursements under this paragraph (b)(i) shall satisfy any applicable federal tax law requirements.

(ii) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding

is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (b)(ii) shall not exceed One Hundred Thousand Dollars ($100,000.00) in the aggregate. Reimbursements under this paragraph (b)(ii) shall satisfy any applicable federal tax law requirements.

(c)(i) Except as otherwise provided in this subsection, the proceeds of bonds issued under this section for a project described in Section 57-75-5(f) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to the project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project.

(ii) Except as otherwise provided in this subsection, the proceeds of bonds issued under this section for a project described in Section 57-75-5(f) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to the project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates; be in such denomination or denominations; bear interest at such rate or rates; be payable at such place or places within or without the state; mature absolutely at such time or times; be redeemable before maturity at such time or times and upon such terms, with or without premium; bear such registration privileges; and be substantially in such form; all as shall be determined by resolution of the State Bond Commission except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date thereof and extending not more than twenty-five (25) years from the date thereof. The bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such bonds have been signed by the officials herein designated

to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall act as issuing agent for the bonds, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. The bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101 as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If the bonds are to be sold on sealed bids at public sale, notice of the sale of any bonds shall be published at least one time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson, Mississippi, selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of this section, may provide that the bonds, at the option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state. The Legislature shall appropriate annually an amount sufficient to pay the principal of and the interest on such bonds as they become due. All bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants payable out of any funds appropriated by the Legislature under this section for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of this

section. The State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes. No note shall mature more than three (3) years following the date of its issuance. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and interim notes authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued under this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance

companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) The Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the Bond Commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

(16) There is hereby created a special fund in the State Treasury to be known as the Mississippi Major Economic Impact Authority Fund wherein shall be deposited the proceeds of the bonds issued under this chapter and all monies received by the authority to carry out the purposes of this chapter. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the fund, and the Department of Finance and Administration shall issue warrants upon requisitions signed by the director of the authority.

(17)(a) There is hereby created the Mississippi Economic Impact Authority Sinking Fund from which the principal of and interest on such bonds shall be paid by appropriation. All monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(b) In the event that all or any part of the bonds and notes are purchased, they shall be cancelled and returned to the loan and transfer agent as cancelled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the cancelled bonds, notes and coupons, together with any other cancelled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the cancelled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the sinking fund for the payment of the principal of and interest on the bonds and notes.

(d) Any monies repaid to the state from loans authorized in Section 57-75-11(hh) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund unless the State Bond Commission, at the request

of the authority, shall determine that such loan repayments are needed to provide additional loans as authorized under Section 57-75-11(hh). For purposes of providing additional loans, there is hereby created the Mississippi Major Economic Impact Authority Revolving Loan Fund and loan repayments shall be deposited into the fund. The fund shall be maintained for such period as determined by the State Bond Commission for the sole purpose of making additional loans as authorized by Section 57-75-11(hh). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned on amounts in such fund shall be deposited to the credit of the fund.

(e) Any monies repaid to the state from loans authorized in Section 57-75-11(ii) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(f) Any monies repaid to the state from loans authorized in Section 57-75-11(jj), Section 57-75-11(vv) and Section 57-75-11(xx) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(18)(a) Upon receipt of a declaration by the authority that it has determined that the state is a potential site for a project, the State Bond Commission is authorized and directed to authorize the State Treasurer to borrow money from any special fund in the State Treasury not otherwise appropriated to be utilized by the authority for the purposes provided for in this subsection.

(b) The proceeds of the money borrowed under this subsection may be utilized by the authority for the purpose of defraying all or a portion of the costs incurred by the authority with respect to acquisition options and planning, design and environmental impact studies with respect to a project defined in Section 57-75-5(f)(xi) or Section 57-75-5(f)(xxix). The authority may escalate its budget and expend the proceeds of the money borrowed under this subsection in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

(c) The authority shall request an appropriation or additional authority to issue general obligation bonds to repay the borrowed funds and establish a date for the repayment of the funds so borrowed.

(d) Borrowings made under the provisions of this subsection shall not exceed Five Hundred Thousand Dollars ($500,000.00) at any one time.

[From and after July 1, 2025, this section shall read as follows:]

(1) Upon notification to the authority by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the authority as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the authority may thereafter, from time to time, declare the necessity for the issuance of general obligation bonds as authorized by this section and forward such declaration to the State

Bond Commission, provided that before such notification, the authority may enter into agreements with the United States government, private companies and others that will commit the authority to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the authority, the State Bond Commission shall verify that the state has been selected as the site of the project and shall act as the issuing agent for the series of bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3)(a) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(i) shall not exceed an aggregate principal amount in the sum of Sixty-seven Million Three Hundred Fifty Thousand Dollars ($67,350,000.00).

(b) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(ii) shall not exceed Seventy-seven Million Dollars ($77,000,000.00). The authority, with the express direction of the State Bond Commission, is authorized to expend any remaining proceeds of bonds issued under the authority of this act prior to January 1, 1998, for the purpose of financing projects as then defined in Section 57-75-5(f)(ii) or for any other projects as defined in Section 57-75-5(f)(ii), as it may be amended from time to time. No bonds shall be issued under this paragraph (b) until the State Bond Commission by resolution adopts a finding that the issuance of such bonds will improve, expand or otherwise enhance the military installation, its support areas or military operations, or will provide employment opportunities to replace those lost by closure or reductions in operations at the military installation or will support critical studies or investigations authorized by Section 57-75-5(f)(ii).

(c) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(iii) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after December 31, 1996.

(d) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(iv) shall not exceed Three Hundred Fifty-one Million Dollars ($351,000,000.00). An additional amount of bonds in an amount not to exceed Twelve Million Five Hundred Thousand Dollars ($12,500,000.00) may be issued under the authority of this section for the purpose of defraying costs associated with the construction of surface water transmission lines for a project defined in Section 57-75-5(f)(iv) or for any facility related to the project. No bonds shall be issued under this paragraph after June 30, 2005.

(e) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(v) and for facilities related to such projects shall not exceed Thirty-eight Million Five Hundred Thousand Dollars ($38,500,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(f) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(vii) shall not exceed Five Million Dollars

($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2006.

(g) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(viii) shall not exceed Four Million Five Hundred Thousand Dollars ($4,500,000.00). No bonds shall be issued under this paragraph after June 30, 2008.

(h) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(ix) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2007.

(i) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(x) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(j) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xii) shall not exceed Thirty-three Million Dollars ($33,000,000.00). The amount of bonds that may be issued under this paragraph for projects defined in Section 57-75-5(f)(xii) may be reduced by the amount of any federal or local funds made available for such projects. No bonds shall be issued under this paragraph until local governments in or near the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Five Hundred Thousand Dollars ($2,500,000.00) in the aggregate; however, this irrevocable commitment requirement may be waived by the authority upon a finding that due to the unforeseen circumstances created by Hurricane Katrina, the local governments are unable to comply with such commitment. No bonds shall be issued under this paragraph after June 30, 2008.

(k) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiii) shall not exceed Three Million Dollars ($3,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(*l*) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiv) shall not exceed Twenty-four Million Dollars ($24,000,000.00). No bonds shall be issued under this paragraph until local governments in the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Dollars ($2,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(m) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xv) shall not exceed Five Hundred Thousand Dollars ($500,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(n) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvi) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(o) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvii) shall not exceed Three Million Five Hundred

Thousand Dollars ($3,500,000.00). No bonds shall be issued under this paragraph after June 30, 2010.

(p) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xviii) shall not exceed Ninety-six Million Dollars ($96,000,000.00). No bonds shall be issued under this paragraph after June 30, 2016.

(q) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xix) shall not exceed Fifteen Million Dollars ($15,000,000.00). No bonds shall be issued under this paragraph after June 30, 2012.

(r) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xx) shall not exceed Twenty-three Million Dollars ($23,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(s) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxi) shall not exceed Two Hundred Ninety-three Million Nine Hundred Thousand Dollars ($293,900,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(t) Bonds issued under the authority of this section for Tier One suppliers shall not exceed Thirty Million Dollars ($30,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(u) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxii) shall not exceed Forty-eight Million Four Hundred Thousand Dollars ($48,400,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(v) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiii) shall not exceed Eighty-eight Million Two Hundred Fifty Thousand Dollars ($88,250,000.00). No bonds shall be issued under this paragraph after July 1, 2009.

(w) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiv) shall not exceed Thirteen Million Dollars ($13,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(x) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxv) shall not exceed Twenty-five Million Dollars ($25,000,000.00). No bonds shall be issued under this paragraph after July 1, 2017.

(y) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvi) shall not exceed Thirty-five Million One Hundred Thousand Dollars ($35,100,000.00). No bonds shall be issued under this paragraph after July 1, 2021.

(z) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvii) shall not exceed Fifty Million Dollars ($50,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(aa) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxviii) shall not exceed One Hundred Thirty

Million Dollars ($130,000,000.00). No bonds shall be issued under this paragraph after July 1, 2023.

(bb) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxix) shall not exceed Two Hundred Sixty-three Million Dollars ($263,000,000.00). No bonds shall be issued under this paragraph after July 1, 2034.

(cc) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxx) shall not exceed Eleven Million Dollars ($11,000,000.00). No bonds shall be issued under this paragraph after July 1, 2025.

(dd) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxxi) shall not exceed Two Hundred Forty-six Million Seven Hundred Ninety-eight Thousand Five Hundred Fifty Dollars ($246,798,550.00); however, the total amount of bonds that may be issued under the authority of this section for projects defined in Section 57-75-5(f)(xxxi) shall be reduced by the amount of any other funds authorized by the Legislature during the 2022 First Extraordinary Session specifically for such projects. No bonds shall be issued under this paragraph after July 1, 2040.

(4)(a) The proceeds from the sale of the bonds issued under this section may be applied for the following purposes:

(i) Defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement, relocation and with respect to state-owned property, operation and maintenance of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts and environmental impact studies;

(ii) Defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity;

(iii) Reimbursing the Mississippi Development Authority for expenses it incurred in regard to projects defined in Section 57-75-5(f)(iv) prior to November 6, 2000. The Mississippi Development Authority shall submit an itemized list of expenses it incurred in regard to such projects to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(iv) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(iv)1;

(v) Paying any warranty made by the authority regarding site work for a project defined in Section 57-75-5(f)(iv)1;

(vi) Defraying the cost of marketing and promotion of a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-

5(f)(xxii). The authority shall submit an itemized list of costs incurred for marketing and promotion of such project to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(vii) Providing for the payment of interest on the bonds;

(viii) Providing debt service reserves;

(ix) Paying underwriters' discount, original issue discount, accountants' fees, engineers' fees, attorneys' fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds;

(x) For purposes authorized in paragraphs (b) and (c) of this subsection (4);

(xi) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(v), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xii) Providing grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii);

(xiii) Providing grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv);

(xiv) Providing grants, loans and payments to or for the benefit of an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii);

(xv) Purchasing equipment for a project defined in Section 57-75-5(f)(viii) subject to such terms and conditions as the authority considers necessary and appropriate;

(xvi) Providing grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx);

(xvii) Providing grants and loans for projects as authorized in Section 57-75-11(kk), (ll), (mm), (uu), (vv) or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xviii) Providing grants for projects as authorized in Section 57-75-11(pp) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xix) Providing grants and loans for projects as authorized in Section 57-75-11(qq);

(xx) Providing grants for projects as authorized in Section 57-75-11(rr);

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss);

(xxii) Providing loans as authorized in Section 57-75-11(tt);

(xxiii) Providing grants as authorized in Section 57-75-11(ww) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate; and

(xxiv) Providing loans, grants and other funds as authorized in Sections 57-75-11(xx) and 57-75-11(yy) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate.

Such bonds shall be issued, from time to time, and in such principal amounts as shall be designated by the authority, not to exceed in aggregate principal amounts the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued under this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(b)(i) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (b)(i) shall not exceed Three Hundred Thousand Dollars ($300,000.00) in the aggregate. Reimbursements under this paragraph (b)(i) shall satisfy any applicable federal tax law requirements.

(ii) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (b)(ii) shall not exceed One Hundred Thousand Dollars ($100,000.00) in the aggregate. Reimbursements under this paragraph (b)(ii) shall satisfy any applicable federal tax law requirements.

(c)(i) Except as otherwise provided in this subsection, the proceeds of bonds issued under this section for a project described in Section 57-75-5(f) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to the project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project.

(ii) Except as otherwise provided in this subsection, the proceeds of bonds issued under this section for a project described in Section 57-75-5(f)

may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to the project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates; be in such denomination or denominations; bear interest at such rate or rates; be payable at such place or places within or without the state; mature absolutely at such time or times; be redeemable before maturity at such time or times and upon such terms, with or without premium; bear such registration privileges; and be substantially in such form; all as shall be determined by resolution of the State Bond Commission except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date thereof and extending not more than twenty-five (25) years from the date thereof. The bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such bonds have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall act as issuing agent for the bonds, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds on sealed bids at public sale, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may sell such bonds on sealed bids at public sale for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale

shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. The bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101 as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually; provided that the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any bonds shall be published at least one time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson, Mississippi, selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of this section, may provide that the bonds, at the option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state. The Legislature shall appropriate annually an amount sufficient to pay the principal of and the interest on such bonds as they become due. All bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants payable out of any funds appropriated by the Legislature under this section for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of this section. The State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and

conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes. No note shall mature more than three (3) years following the date of its issuance. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and interim notes authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued under this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) The Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the Bond Commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

(16) There is hereby created a special fund in the State Treasury to be known as the Mississippi Major Economic Impact Authority Fund wherein shall be deposited the proceeds of the bonds issued under this chapter and all monies received by the authority to carry out the purposes of this chapter. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the fund, and the Department of Finance and Administration shall issue warrants upon requisitions signed by the director of the authority.

(17)(a) There is hereby created the Mississippi Economic Impact Authority Sinking Fund from which the principal of and interest on such bonds shall be paid by appropriation. All monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(b) In the event that all or any part of the bonds and notes are purchased, they shall be cancelled and returned to the loan and transfer agent as cancelled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the cancelled bonds, notes and coupons, together with any other cancelled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the cancelled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the sinking fund for the payment of the principal of and interest on the bonds and notes.

(d) Any monies repaid to the state from loans authorized in Section 57-75-11(hh) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund unless the State Bond Commission, at the request of the authority, shall determine that such loan repayments are needed to provide additional loans as authorized under Section 57-75-11(hh). For purposes of providing additional loans, there is hereby created the Mississippi Major Economic Impact Authority Revolving Loan Fund and loan repayments shall be deposited into the fund. The fund shall be maintained for such period as determined by the State Bond Commission for the sole purpose of making additional loans as authorized by Section 57-75-11(hh). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned on amounts in such fund shall be deposited to the credit of the fund.

(e) Any monies repaid to the state from loans authorized in Section 57-75-11(ii) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(f) Any monies repaid to the state from loans authorized in Section 57-75-11(jj), Section 57-75-11(vv) and Section 57-75-11(xx) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(18)(a) Upon receipt of a declaration by the authority that it has determined that the state is a potential site for a project, the State Bond

Commission is authorized and directed to authorize the State Treasurer to borrow money from any special fund in the State Treasury not otherwise appropriated to be utilized by the authority for the purposes provided for in this subsection.

(b) The proceeds of the money borrowed under this subsection may be utilized by the authority for the purpose of defraying all or a portion of the costs incurred by the authority with respect to acquisition options and planning, design and environmental impact studies with respect to a project defined in Section 57-75-5(f)(xi) or Section 57-75-5(f)(xxix). The authority may escalate its budget and expend the proceeds of the money borrowed under this subsection in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

(c) The authority shall request an appropriation or additional authority to issue general obligation bonds to repay the borrowed funds and establish a date for the repayment of the funds so borrowed.

(d) Borrowings made under the provisions of this subsection shall not exceed Five Hundred Thousand Dollars ($500,000.00) at any one time.

Laws, 1989, ch. 534, § 8; Laws, 1990, ch. 570, § 13; Laws, 1991, ch. 584, § 4; Laws, 1993, ch. 305, § 3; Laws, 1993, ch. 570, § 2; Laws, 1994, ch. 420, § 2; Laws, 1995, ch. 576, § 2; Laws, 1996, ch. 508, § 2; Laws, 1996, ch. 554, § 5; Laws, 1997, ch. 585, § 2; Laws, 2000, ch. 584, § 6; Laws, 2000, 2nd Ex Sess, ch. 1, § 45; Laws, 2000, 3rd Ex Sess, ch. 1, § 9; Laws, 2001, ch. 449, § 1; Laws, 2002, ch. 541, § 7; Laws, 2002, 1st Ex Sess, ch. 2, § 3; Laws, 2003, ch. 3, § 3; Laws, 2003, ch. 326, § 4; Laws, 2003, ch. 513, § 4; Laws, 2004, ch. 484, § 1; Laws, 2004, ch. 507, § 2; Laws, 2004, 3rd Ex Sess, ch. 1, § 93; Laws, 2005, ch. 315, § 3; Laws, 2005, ch. 521, § 3; Laws, 2005, 4th Ex Sess, ch. 1, § 2; Laws, 2005, 5th Ex Sess, ch. 1, § 2; Laws, 2006, ch. 538, § 8; Laws, 2006, 1st Ex Sess, ch. 2, § 3; Laws, 2007, ch. 303, § 4; Laws, 2007, 1st Ex Sess, ch. 1, § 4; Laws, 2008, 1st Ex Sess, ch. 45, § 4; Laws, 2009, ch. 302, § 3; Laws, 2009, ch. 303, § 3; Laws, 2009, ch. 464, § 2; Laws, 2010, ch. 301, § 4; Laws, 2010, ch. 405, § 4; Laws, 2011, ch. 431, § 1; Laws, 2013, ch. 567, § 1; Laws, 2013, ch. 569, § 34; Laws, 2013, 1st Ex Sess, ch. 1, § 4; brought forward without change by Laws, 2014, ch. 427, § 4; Laws, 2014, ch. 500, § 1; Laws, 2016, 1st Ex Sess, ch. 1, § 4; Laws, 2016, ch. 511, § 18; Laws, 2017, ch. 390, § 7, eff from and after July 1, 2017; Laws, 2018, ch. 412, eff from and after July 1, 2018; Laws, 2019, ch. 421, Laws, 2019, ch. 421, § 6, eff from and after July 1, 2019, eff from and after July 1, 2022; Laws, 2020, ch. 492, § 9, eff from and after passage (became law without the Governor's signature on July 9, 2020); Laws, 2022, ch. 383, Laws, 2022, ch. 383, § 1eff from and after July 1, 2022, eff from and after July 1, 2022; Laws, 2022, 1st Ex Sess, ch. 1, § 4, eff from and after passage (approved November 17, 2022).

Editor's Notes — During the 2022 First Extraordinary Session, referenced in subsection (3)(dd), two general bills were passed. Chapter 1 (HB 1) amended Sections 19-9-5, 27-13-5, 27-13-7, 27-65-101, 31-19-25, 43-37-3, 57-75-5, 57-75-9, 57-75-11, 57-75-15, 57-75-17, 57-75-33, 57-75-37, 61-3-19 and 89-1-23 and added Section 27-7-22.45, and Chapter 2 (SB 2001) added Section 57-1-651.

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, in both versions of the section, added (3)(dd), added (4)(a)(xxiv) and made a related change, and in (17)(f), inserted "and Section 57-75-11(xx)" and made a related change.

§ 57-75-17. Powers and duties of public agencies; provision in contracts or agreements between authority and public agency for payment of indebtedness; proceedings upon failure of public agency to pay indebtedness.

(1) For the purpose of aiding in the planning, design, undertaking and carrying out of the project or any facility related to the project, any public agency is authorized and empowered upon such terms, with or without consideration, as it may determine:

(a) To enter into agreements, which may extend over any period, with the authority respecting action to be taken by such public agency with respect to the acquisition, planning, construction, improvement, operation, maintenance or funding of the project or any such facility, and which agreements may include:

(i) The appropriation or payment of funds to the authority or to a trustee in amounts which shall be sufficient to enable the authority to defray any designated portion or percentage of the expenses of administering, planning, designing, constructing, acquiring, improving, operating, and maintaining the project or any facility related to the project,

(ii) The appropriation or payment of funds to the authority or to a trustee to pay interest and principal (whether at maturity or upon sinking fund redemption) on bonds of the authority issued pursuant to this act and to fund reserves for debt service, for operation and maintenance and for renewals and replacements, and to fulfill requirements of any covenant with respect to debt service contained in any resolution, trust indenture or other security agreement relating to the bonds of the authority issued pursuant to this act,

(iii) The furnishing of other assistance in connection with the project or facility related to the project, and

(iv) The borrowing of money from the authority in connection with a project defined in Section 57-75-5(f)(ii);

(b) To dedicate, sell, donate, convey or lease any property or interest in property to the authority or grant easements, licenses or other rights or privileges therein to the authority;

(c) To incur the expense of any public improvements made or to be made by such public agency in exercising the powers granted in this section;

(d) To lend, grant or contribute funds to the authority;

(e) To cause public buildings and public facilities, including parks, playgrounds, recreational areas, community meeting facilities, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished to or with respect to the project or any such facility;

(f) To furnish, dedicate, close, vacate, pave, install, upgrade or improve highways, streets, roads, sidewalks, airports, railroads, or ports;

(g) To plan or replan, zone or rezone any parcel of land within the public agency or make exceptions from land use, building and zoning regulations;

(h) To cause administrative and other services to be furnished to the authority, including services pertaining to the acquisition of real property and the furnishing of relocation assistance; and

(i) To loan to the owner, lessee or operator of any project defined in Section 57-75-5(f)(ii) the proceeds of any loan from the authority to the public entity under the provisions of this act.

(2) Any contract between a public agency entered into with the authority pursuant to any of the powers granted by this act shall be binding upon said public agency according to its terms, and such public agency shall have the power to enter into such contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of such public agency. Such contracts may include within the discretion of such governing authorities of public agencies defined under Section 57-75-5(h)(ii) a pledge of the full faith and credit of such public agency or any other lawfully available funds for the performance thereof. If at any time title to or possession of the project or any such facility is held by any public body or governmental agency other than the authority, including any agency or instrumentality of the United States of America, the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency.

(3) Notwithstanding any provisions of this act to the contrary, any contract entered into between the authority and any public agency for the appropriation or payment of funds to the authority under item (a)(ii) or (a)(iv) of this section shall contain a provision therein requiring periodic payments by the public agency as required by the authority to pay its indebtedness and, if the public agency is not a county or municipality, such contract shall include as an additional party to the contract the county or municipality (referred to in this paragraph as "levying authority") that levies and collects taxes for the contracting public agency. If the public agency fails to pay its indebtedness for any month, the authority shall certify to the Department of Revenue, or other appropriate agency, the amount of the delinquency, and the Department of Revenue shall deduct such amount from the public agency's or levying authority's, as the case may be, next allocation of sales taxes, petroleum taxes, highway privilege taxes, severance taxes, Tennessee Valley Authority payments in lieu of taxes and homestead exemption reimbursements in that order of priority. The Department of Revenue, or other appropriate agency, shall pay the sums so deducted to the authority to be applied to the discharge of the contractual obligation.

(4) Notwithstanding any provision of this act to the contrary, all loans made pursuant to Section 57-75-11(hh) and this section shall be for a term not to exceed twenty (20) years as may be determined by the authority, shall bear interest at such rates as may be determined by the authority, shall, in the sole discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(5)(a) Before authorizing any loan to a public agency defined in Section 57-75-5(h)(ii), a local governmental unit, the governing authority of such

local governmental unit in connection with a project defined in Section 57-75-5(f)(ii), shall adopt a resolution declaring its intention so to do, stating the amount of the loan proposed to be authorized and the purpose for which the loan is to be authorized, and the date upon which the loan will be authorized. Such resolution shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such local governmental unit. The first publication of such resolution shall be made not less than twenty-one (21) days before the date fixed in such resolution for the authorization of the loan and the last publication shall be made not more than seven (7) days before such date. If no newspaper is published in such local governmental unit, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such local governmental unit and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such local governmental unit. If fifteen percent (15%) of the qualified electors of the local governmental unit or fifteen hundred (1500), whichever is the lesser, file a written protest against the authorization of such loan on or before the date specified in such resolution, then an election on the question of the authorization of such loan shall be called and held as otherwise provided for in connection with the issuance of general obligation indebtedness of such local governmental unit. Notice of such election shall be given as otherwise required in connection with the issuance of general obligation indebtedness of such local governmental unit. If three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the governing authority of the local governmental unit shall proceed with the loan; however, if less than three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the loan shall not be incurred. If no protest be filed, then such loan may be entered into by the local governmental unit without an election on the question of the authorization of such loan, at any time within a period of two (2) years after the date specified in the resolution. However, the governing authority of any local governmental unit, in its discretion, may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to authorize such loan as provided in this subsection.

(b) Local governmental units may, in connection with any such loan, enter into any covenants and agreements with respect to such local governmental unit's operations, revenues, assets, monies, funds or property, or such loan, as may be prescribed by the authority.

(c) Upon the making of any such loan by the authority to any local governmental unit, such local governmental unit shall be held and be deemed to have agreed that if such governmental unit fails to pay the principal of, premium, if any, and interest on any such loan as when due and payable, such governmental unit shall have waived any and all defenses to such nonpayment, and the authority, upon such nonpayment, shall thereupon avail itself of all remedies, rights and provisions of law applicable in

such circumstance, including without limitation any remedies or rights theretofore agreed to by the local governmental unit, and that such loan shall for all of the purposes of this section, be held and be deemed to have become due and payable and to be unpaid. The authority may carry out the provisions of this section and exercise all of the rights and other applicable laws of this state.

(d) This section shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized by this section and shall be deemed and construed to be supplemental to any power conferred by other laws on public agencies and not in derogation of any such powers. Any obligation incurred pursuant to the provisions of this section shall not constitute an indebtedness of the public agency within the meaning of any constitutional or statutory limitation or restriction. For purposes of this act, a public agency shall not be required to comply with the provisions of any other law except as provided in this section.

(6) Any public agency providing any utility service or services, to any project defined in Section 57-75-5(f)(iv)1 may enter into leases or subleases for any period of time not to exceed thirty (30) years, in the capacity as lessor or lessee or sublessor or sublessee of lands alone, or lands and facilities located thereon, whether the facilities are owned by the owner of the land, a lessee, sublessee or a third party, and whether the public agency is a lessor, lessee or owner of the land. Any such public agency may also enter into operating agreements and/or lease-purchase agreements with respect to land or utility facilities as owner, operator, lessor or lessee for any period of time not to exceed thirty (30) years. Any such public agency may also enter into contracts for the provision of utilities for any period of time not to exceed thirty (30) years and may set a special rate structure for such utilities.

(7)(a) No well shall be permitted by any public agency responsible for the conservation of oil and gas in the State of Mississippi to be drilled on or under a tract of land which is a part of a project owned or operated by an enterprise as defined in Section 57-75-5(f)(xxix) or Section 57-75-5(f)(xxxi) and which enterprise is a nonconsenting owner as defined in Section 53-3-7(1), which owns both the surface estate of said tract of land and also owns one hundred percent (100%) of the drilling rights in said tract of land.

(b) No mining activities on or under land which is part of a project as defined in Section 57-75-5(f)(xxix) or Section 57-75-5(f)(xxxi) shall be permitted by any public agency responsible for mining in the state without the consent of the enterprise owning or operating such project.

HISTORY: Laws, 1989, ch. 534, § 9; Laws, 2000, 3rd Ex Sess, ch. 1, § 10; Laws, 2004 3rd Ex Sess, ch. 1, § 94; Laws, 2016, 1st Ex Sess, ch. 1, § 5, eff from and after passage (approved Feb. 8, 2016); Laws, 2022, 1st Ex. Sess., ch. 1, § 5, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, in (7)(a) and (b), inserted "or Section 57-75-5(f)(xxxi)."

§ 57-75-33. Counties and municipalities authorized to enter into agreements with enterprises operating certain projects, providing that no taxes, fees or assessments will be levied upon the enterprise other than those generally levied upon all taxpayers; counties and municipalities authorized to enter into fee in lieu of ad valorem taxes agreements.

The board of supervisors of a county or the governing authorities of a municipality may each enter into an agreement with an enterprise operating a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii), Section 57-75-5(f)(xxviii), Section 57-75-5(f)(xxix) or Section 57-75-5(f)(xxxi), providing that the county or municipality will not levy any taxes, fees or assessments upon the enterprise other than taxes, fees or assessments that are generally levied upon all taxpayers, or all other taxpayers in the taxing districts in which such project is located, and the board of supervisors or the governing authorities also may each enter into a fee-in-lieu agreement as provided in Section 27-31-104 and/or Section 27-31-105(2). Such agreements may be for a period not to exceed thirty (30) years, except that any fee-in-lieu agreement entered into under this section and Section 27-31-104 and/or Section 27-31-105(2) shall become effective upon its execution by the enterprise and the county board of supervisors and/or municipal governing authorities, as the case may be, in accordance with Section 27-31-104, and continue in effect until all fee-in-lieu periods granted thereunder have expired; however, the period during which any fee-in-lieu may be granted under this section shall not exceed thirty (30) years, and no particular parcel of land, real property improvement or item of personal property shall be subject to a fee-in-lieu for a duration of more than ten (10) years.

HISTORY: Laws, 2000, 3rd Ex Sess, ch. 1, § 4; Laws, 2007, ch. 303, § 5; Laws, 2007, 1st Ex Sess, ch. 1, § 5; Laws, 2013, 1st Ex Sess, ch. 1, § 5; Laws, 2016, 1st Ex Sess, ch. 1, § 6, eff from and after passage (approved Feb. 8, 2016); Laws, 2022, 1st Ex. Sess., ch. 1, § 6, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, in the first sentence, inserted "or Section 57-75-5(f)(xxxi)" and made a related change.

§ 57-75-37. Certain counties authorized to contribute or lend funds to enterprises owning or operating certain projects; county may issue bonds to provide funds for such purposes; county may donate property for use in the location, construction, or operation of such projects; additional authority to acquire and contribute project sites, apply for grants and loans for project infrastructure, and enter into certain lease agreements.

(1)(a)(i) Any county in which there is to be constructed a project as defined in Section 57-75-5(f)(xviii) is authorized to assist in defraying the costs incurred or to be incurred by the enterprise establishing such project by:

1. Contributing a sum of up to Five Million Dollars ($5,000,000.00) to such enterprise for use in connection with the construction of the project; and/or

2. Lending a sum of up to Five Million Dollars ($5,000,000.00) upon such terms as the board of supervisors of such county and such enterprise may agree, the proceeds of which loan shall be used by such enterprise in connection with the construction or financing of the project.

(ii) In order to provide the amounts set forth in paragraph (a)(i) of this subsection (1), any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds, or any combination of the foregoing. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

(b) The board of supervisors of any county may donate real property for use in the location, construction and/or operation of a project as defined under Section 57-75-5(f)(xviii) to one or more economic development authorities, economic development districts, industrial development authorities or similar public agencies created pursuant to state law that engage in economic or industrial development in the county, and any such public agencies may accept such donation of real property from the county. Such public agencies also may transfer and convey among themselves, with or without consideration being paid or received, real property to be used in the location, construction and/or operation of such a project, and may accept such transfers or donations.

(2) Any county or municipality in which there is to be constructed a project as defined in Section 57-75-5(f)(xxvi) or 57-75-5(f)(xxvii) is authorized to:

(a) Acquire the site for such project and contribute the site to the enterprise owning or operating the project;

(b) Apply for grants and loans and utilize the proceeds of such grants and loans for infrastructure related to the project; and

(c) Enter into a lease agreement with the enterprise owning or operating the project for a term not to exceed ninety-nine (99) years.

(3)(a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxviii).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority or similar public agency created pursuant to state law that engages in economic or industrial development in the county or a municipality in the county.

(b) Any county in which there is to be located a project is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and any public agency in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project. The county may provide such assistance by contributing or lending any sum approved for such purpose by the board of supervisors of the county, upon such terms as the board of supervisors may agree, to the entity that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project.

(c) In order to provide the amounts set forth in paragraph (b) of this subsection, any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds, or any combination of the foregoing. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

(d) In any county in which there is to be located a project, the governing authorities of any public agency may:

(i) Transfer and convey to the authority or the Mississippi Development Authority, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, and the authority and the Mississippi Development Authority may accept such transfers or donations;

(ii) Transfer and convey among themselves, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations; and

(iii) Make grants or other contributions of funds to one another for use in connection with the location, construction and/or operation of such a project or any facilities or public infrastructure related to the project, and may accept such grants or contributions of funds.

(e) In any county in which there is to be located a project, the person, entity or other agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project, shall be exempt with respect to such property from the requirements of Section 43-37-3(1)(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the person, agency or other entity seeking to acquire the property, and at which the owner of the property is willing to sell the property.

(4)(a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority or similar public agency created pursuant to state law that engages in economic or industrial development in the county or a municipality in the county.

(iii) "Board of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(iv) "Superintendent of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(b) In any county in which there is to be located a project, any public agency is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and/or any public agency in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project. Any such public agency may provide such assistance by contributing or lending any sum approved for such purpose by the governing authority of such public agency, upon such terms as the governing authority of such public agency may agree, to the entity or public agency that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, including, without limitation, to defray the costs of site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, job training, as well as planning, design and environmental impact studies with respect to a project, and any other expenses approved by any such public agency.

(c) In order to provide the amounts set forth in paragraph (b) of this subsection:

(i) Any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, Section 19-5-99 or in any other manner permitted by any local and private law or other general laws; and

(ii) Any public agency may borrow or accept grants of such amounts from the authority or the Mississippi Development Authority for such duration and upon such terms and conditions approved by the governing authority of such public agency and the authority or Mississippi Development Authority, as applicable.

(d) In any county in which there is to be located a project, the governing authority of any public agency may:

(i) Transfer and convey to the authority or the Mississippi Development Authority, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, and the authority and the Mississippi Development Authority may accept such transfers or donations;

(ii) Transfer and convey among themselves, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations;

(iii) Make grants or other contributions of funds to:

1. One another for use in connection with the location, construction and/or operation of such a project or any facilities or public infrastructure related to the project, and may accept such grants or contributions of funds; and/or

2. A local water association incorporated as a nonprofit corporation and located within such county for the purpose of defraying the costs incurred or to be incurred thereby in connection with water or wastewater-related infrastructure improvements, including an elevated water tank, located within the project area; and

(iv) Make one or more periodic grants or other contributions of funds to an enterprise or affiliate thereof owning and/or operating a project in such amount or amounts approved by such governing authority, and enter into an agreement with such enterprise to make such periodic grants or other contributions of funds; however, the duration of any such obligation of the public agency to make such grants or other contributions shall not exceed thirty (30) years.

(e) In any county in which there is to be located a project, the public agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project, shall be exempt with respect to such property from the requirements of Section 43-37-3(1)(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the public agency seeking to acquire the property, and at which the owner of the property is willing to sell the property, and any such public agency is further authorized to procure an option to purchase any such real property for such purchase price authorized by this subsection for the lowest option payment at which the owner of the property is willing to grant such option.

(f) In any county in which there is to be located a project, upon the sale of any sixteenth section lands for industrial purposes as provided by law for such project, the board of education controlling such lands, the superintendent of education and the Mississippi Development Authority, on behalf of the state, may sell and convey all minerals in, on and under any such lands for such consideration determined to be adequate by, and upon such terms and conditions prescribed by, such board of education, superintendent of education and the Mississippi Development Authority.

(g) In any county in which there is to be located a project, the governing authority of the applicable public agency may enter into an agreement binding on future governing authorities, for any period not to exceed thirty (30) years to:

(i) Waive any and all fees and expenses associated with building permits and privilege licenses required for the project;

(ii) Establish and/or maintain a rate structure for water supplied to the project and wastewater received from the project, which shall be no higher than the lowest tariff prices for such water and wastewater charged to any customer of equal or lesser volume located within the boundaries of the public agency;

(iii) Provide firefighting, hazardous materials emergency response, technical rescue and medical response assistance to the enterprise owning or operating the project; and

(iv) Require any contractor hired by the public agency for purposes of entering onto the project site for such project to perform work-related to the provision of water supply or wastewater services, to procure customary liability insurance designating the enterprise owning or operating the project as an additional insured and to contractually indemnify such enterprise for any losses incurred by the enterprise as a result of such contractor's negligence and/or willful acts or omissions arising from the contractor's entry upon such project site.

(5)(a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxxi).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority, port authority or airport authority or similar public agency created pursuant to state law.

(iii) "Board of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(iv) "Superintendent of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(b) In any county in which there is to be located a project, any public agency is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and/or any public agency in connection with the location, construction and/or

operation of the project or any facilities or public infrastructure related to the project. Any such public agency may provide such assistance by contributing or lending any sum approved for such purpose by the governing authority of such public agency, upon such terms as the governing authority of such public agency may agree, to the entity or public agency that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, including, without limitation, to defray the costs of site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, job training, as well as planning, design and environmental impact studies with respect to a project, and any other expenses approved by any such public agency.

(c) In order to provide the amounts set forth in paragraph (b) of this subsection:

(i) Any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, Section 19-5-99 or in any other manner permitted by any local and private law or other general laws; and

(ii) Any public agency may borrow or accept grants of such amounts from the authority or the Mississippi Development Authority for such duration and upon such terms and conditions approved by the governing authority of such public agency and the authority or Mississippi Development Authority, as applicable.

(d) In any county in which there is to be located a project, the governing authorities of public agencies may:

(i) Transfer and convey among themselves, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations;

(ii) Make grants or other contributions of funds to one another for use in connection with the location, construction and/or operation of such a project or any facilities or public infrastructure related to the project, and may accept such grants or contributions of funds; and

(iii) Make one or more grants or other contributions of funds to an enterprise or affiliate thereof owning and/or operating a project in such amount or amounts approved by such governing authority, and enter into an agreement with such enterprise to make such grants or other contributions of funds; however, the duration of any such obligation of the public agency to make such grants or other contributions shall not exceed thirty (30) years.

(e) In any county in which there is to be located a project, the public agency seeking to acquire any real property to be used in connection with the

location, construction and/or operation of the project, shall be exempt with respect to such property from the requirements of Section 43-37-3(1)(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the public agency seeking to acquire the property, and at which the owner of the property is willing to sell the property, and any such public agency is further authorized to procure an option to purchase any such real property for such purchase price authorized by this subsection for the lowest option payment at which the owner of the property is willing to grant such option.

(f) In any county in which there is to be located a project, upon the sale of land owned by an industrial development authority, port authority or airport authority for industrial purposes as provided by law for such project, the governing authorities controlling such lands may sell and convey all minerals in, on and under any such lands for such consideration determined to be adequate by, and upon such terms and conditions prescribed by, such governing authority or may otherwise enter into a written agreement with the enterprise owning and/or operating such project pursuant to which such governing authority of the industrial development authority, port authority or airport authority, as the case may be, may agree to perpetually refrain from using the surface of such land upon which the project is located to access any minerals located thereunder in which such public agency has a retained ownership interest. Any such written agreement shall be binding upon future governing authorities.

(g) In any county in which there is to be located a project, the governing authority of the applicable public agency may enter into an agreement binding on future governing authorities, for any period not to exceed thirty (30) years to:

(i) Waive any and all fees and expenses associated with building permits and privilege licenses required for the project;

(ii) Establish and/or maintain a rate structure for water supplied to the project and wastewater received from the project, which shall be no higher than the lowest tariff prices for such water and wastewater charged to any customer of equal or lesser volume located within the boundaries of the public agency; and

(iii) Require any contractor hired by the public agency for purposes of entering onto the project site for such project to perform work related to the provision of water supply or wastewater services, to procure customary liability insurance designating the enterprise owning or operating the project as an additional insured and to contractually indemnify such enterprise for any losses incurred by the enterprise as a result of such contractor's negligence and/or willful acts or omissions arising from the contractor's entry upon such project site.

(6) The powers and authority granted in this section are an additional, alternative and supplemental method for the doing of the things authorized by this section and are additional and supplemental to, and not in derogation of, any other powers conferred by law.

HISTORY: Laws, 2005, ch. 315, § 8; Laws, 2010, ch. 301, § 5; Laws, 2010, ch. 405, § 5; Laws, 2013, 1st Ex Sess, ch. 1, § 6; Laws, 2016, 1st Ex Sess, ch. 1, § 7, eff from and after passage (approved Feb. 8, 2016); Laws, 2022, 1st Ex. Sess., ch. 1, § 7, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, added (5); and redesignated former (5) as present (6).

TITLE 61.

AVIATION

Chapter 3. Airport Authorities.....61-3-1

CHAPTER 3.

AIRPORT AUTHORITIES

Sec.
61-3-19. Disposal of airport property.

§ 61-3-19. Disposal of airport property.

(1)(a) Except as may be limited by the terms and conditions of any grant, loan or agreement authorized by Section 61-3-25, an authority may, by sale, lease or otherwise, dispose of any airport, air navigation facility or other property, real or personal, or portion thereof or interest therein, acquired pursuant to this chapter. If Section 29-1-1 is applicable to a sale of real property, the sale shall comply with Section 29-1-1.

(b) If Section 29-1-1 is not applicable, the disposal by sale, lease or otherwise, shall be in accordance with the following procedure. The authority shall find and determine by resolution duly and lawfully adopted and spread upon its minutes that:

(i) The property is no longer needed for authority purposes and is not to be used in the authority's operation;

(ii) There is no state agency, board, commission or any governing authority within the state that has expressed a need or use for the property and the federal government has not expressed a need or use for the property; and

(iii) The use of the property for the purpose for which it is to be sold, leased or otherwise disposed of will promote and foster the development and improvement of the authority or of the community in which it is located and the civic, social, educational, cultural, moral, economic or industrial welfare thereof.

(2) After making the determinations, the authority may sell, lease or otherwise dispose of the property in accordance with applicable law and by any of the following methods:

(a) The authority may sell, lease or otherwise dispose of the property if the consideration is not less than the fair market price for the property as determined by averaging the appraisals of two (2) professional property appraisers selected by the authority and approved by the purchaser or lessee. Appraisal fees shall be shared equally by the authority and the purchaser or lessee.

(b) The authority may sell, lease or otherwise dispose of the property to the highest bidder after publishing at least once each week for three (3)

consecutive weeks in a public newspaper published in the county in which the property is located, or if no newspaper is published in the county, then in a newspaper having general circulation therein, the authority's intention to lease, sell or otherwise dispose of the property and to accept sealed competitive bids for the sale, lease or disposal of the property. The authority shall thereafter accept bids for the sale, lease or disposal of the property and shall award the sale, lease or disposal to the highest bidder.

(c) The authority may sell and dispose of personal property at public sale for cash to the highest bidder after publishing at least once each week for three (3) consecutive weeks in a public newspaper published in the county in which the property is located, or if no newspaper is published in the county, then in a newspaper having general circulation therein, the authority's intention to sell and dispose of the personal property at public sale for cash. Any public sale for cash may be conducted by or on behalf of the authority. At the public sale for cash, the personal property shall be sold and disposed of to the highest bidder.

(d) The authority may sell and dispose of personal property by use of an Internet web service available to the public, including, but not limited to, an Internet auction website, for cash or irrevocable electronic transfer of funds, to the highest bidder after publishing at least once each week for three (3) consecutive weeks in a public newspaper published in the county in which the property is located, or if no newspaper is published in the county, then in a newspaper having general circulation therein, the following information:

(i) The authority's intention to sell and dispose of the personal property through use of the Internet web service;

(ii) The location on the Internet website where the personal property will be listed; and

(iii) The listing date and closing date of the Internet sale.

At the Internet sale, the personal property shall be sold and disposed of to the highest bidder; provided, all Internet sales shall comply with federal law. In the event that any Internet sale is not concluded for any reason, the authority may relist and sell the personal property by use of the same Internet web service without the public notice set forth in this paragraph.

Notwithstanding anything herein to the contrary, in the case of a sale, lease or disposal of property to another authority, a municipality or an agency of the state or federal government for use and operation as a public airport, the sale, lease or other disposal thereof may be effected in such manner and upon such terms as the commissioners of the authority may deem to be in the best interest of civil aviation.

(e)(i) The authority may sell or otherwise convey real property thereof to an enterprise operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxxi)1 provided that 1. the consideration for the property is not less than its fair market value as determined by an appraisal performed by a professional appraiser approved by the authority, or 2. the authority receives in exchange for such real property one or more other

parcels of real property whose collective fair market value, as determined by an appraisal performed by a professional appraiser approved by the authority, is equal to or greater than the fair market value, as determined by an appraisal performed by a professional appraiser approved by the authority, of the authority's property conveyed to the enterprise operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxxi)1.

(ii) The authority may lease real property thereof to an enterprise operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxxi)1 for a term of up to ninety-nine (99) years pursuant to a lease agreement between the authority and the enterprise, which shall provide that the rental consideration for the lease of the property is not less than the fair market rent for the property as of the commencement of such lease as determined by an appraisal performed by a professional appraiser approved by the authority. Any such lease agreement shall be binding, according to its terms, on future boards of commissioners of the authority for the duration of the lease agreement.

(3) The authority may lease lands owned by the authority for oil, gas and mineral exploration and development upon the terms and conditions and for consideration as the authority shall deem proper and advisable. However, no oil, gas or mineral lease shall be for a primary term of more than ten (10) years and the lease or leases shall provide for annual rentals of not less than One Dollar ($1.00) per acre and shall provide for royalties of not less than three-sixteenths (3/16) of all oil, gas and other minerals produced, including sulphur. All rentals, royalties or other revenue payable under any lease executed under this section shall be paid to and collected by the authority. The leases shall specifically provide that, in no event, shall any such lease or the exercise of any rights thereunder, interfere with the use of any airport or air navigational facilities for their intended purposes.

HISTORY: Codes, 1942, § 7545-39; Laws, 1958, ch. 230, § 9; Laws, 1984, ch. 370; Laws, 1992, ch. 379, § 7; Laws, 1993, ch. 615, § 14; Laws, 1996, ch. 404, § 4; Laws, 2011, ch. 470, § 1; Laws, 2012, ch. 450, § 3; Laws, 2014, ch. 523, § 1, eff from and after July 1, 2014; Laws, 2022, 1st Ex. Sess., ch. 1, § 16, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, added (2)(e).

TITLE 63.

MOTOR VEHICLES AND TRAFFIC REGULATIONS

Chapter 3. Traffic Regulations and Rules of the Road.....63-3-1

CHAPTER 3.

TRAFFIC REGULATIONS AND RULES OF THE ROAD

Article 7. Traffic Signs, Signals and Markings.....63-3-301

ARTICLE 7.

TRAFFIC SIGNS, SIGNALS AND MARKINGS.

Sec.
63-3-309. Traffic-control signal colors and rules.

§ 63-3-309. Traffic-control signal colors and rules.

Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, only the following colors shall be used and said terms and lights shall indicate as follows:

(1) Green alone or "Go."

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. However, vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Yellow alone or "Caution" when shown following the green or "Go" signal.

(a) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety a vehicle may be driven cautiously through the intersection.

(b) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) Red alone or "Stop."

(a) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line and shall remain standing until green or "Go" is shown alone, except as provided in subparagraphs (b) and (c) of this paragraph (3);

(b) Vehicular traffic facing a steady red signal may cautiously enter the intersection to turn right after stopping as required by subparagraph (a) of this paragraph (3), unless a sign stating "No Turn On Red" is in place prohibiting such a turn. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other vehicular traffic lawfully using the intersection.

(c) Vehicular traffic facing a steady red signal at the intersection of two (2) one-way streets may cautiously enter the intersection to turn left in the direction designated for one-way traffic, after stopping as required by subparagraph (a) of this paragraph (3), unless a sign stating "No Turn On Red" is in place prohibiting such a turn. Such vehicular traffic shall yield the right-of-way to pedestrians within an adjacent crosswalk and to other vehicular traffic lawfully using the intersection.

(d) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(4) Red with green arrow.

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make movement indicated by such arrow but shall not interfere with other traffic or endanger pedestrians lawfully within a crosswalk.

(b) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

HISTORY: Codes, 1942, § 8157; Laws, 1938, ch. 200; Laws, 1974, ch. 399; Laws, 1976, ch. 308; Laws, 1987, ch. 412, eff from and after July 1, 1987.

Editor's Notes — At the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, the phrase "subparagraph (a) of this paragraph (3)" was substituted for "paragraph (3)(a)" in paragraph (3)(c).

TITLE 71.

LABOR AND INDUSTRY

CHAPTER 3.

WORKERS' COMPENSATION

GENERAL PROVISIONS

§ 71-3-3. Definitions.

JUDICIAL DECISIONS

ANALYSIS

17. Disability.
23. Injury, generally.
26. — Other particular causes of injuries.

17. Disability.

Where the employee was working as a coil winder when she tripped over an airhose, fell backward, and injured her head, neck, shoulder, and back, she was treated by numerous physicians and assessed a permanent medical impairment for her cervical and lumbar spine. She was suffered a second injury while lifting eight-gauge wire over her head, and injured both her arms, shoulders, back, and neck. Substantial evidence supported the Mississippi Worker's Compensation Commission's findings of loss of wage-earning and a 38% loss of industrial, entitling her to permanent partial disability benefits. Howard Indus. v. Hayes, — So. 3d —, 2022 Miss. App. LEXIS 373 (Miss. Ct. App. Oct. 11, 2022).

23. Injury, generally.

26. — Other particular causes of injuries.

Court affirmed denial of benefits as the employee's injury did not arise out of and in the course of his employment, as nothing showed that the employee's work was a contributing cause to his injury; he became involved in a quarrel with a coworker regarding musical genre preference, which was not subject matter related to work, and he was not acting in self-defense, as he willfully engaged in conduct intending to injure himself or another when he abandoned his work to participate in the altercation. Hollis v. Acoustics, Inc., 348 So. 3d 350, 2022 Miss. App. LEXIS 337 (Miss. Ct. App. 2022).

§ 71-3-7. Liability for payment of compensation.

JUDICIAL DECISIONS

38. Injury from assault or other intentional acts.

Someone acting in self-defense does not willfully engage in conduct intended to injure another; the person instead is forced to protect himself against bodily harm. It seems unlikely the Workers' Compensation Commission would use the language in Miss. Code Ann. § 71-3-7(4) to deny compensation benefits to victims of assault at a job site who have not willfully abandoned their employment to engage in an altercation. Hollis v. Acoustics, Inc., 348 So. 3d 350, 2022 Miss. App. LEXIS 337 (Miss. Ct. App. 2022).

§ 71-3-9. Exclusiveness of liability.

JUDICIAL DECISIONS

3. Employer-employee relationship.

Timber project owner was not a truck driver's statutory employer entitled to the exclusive remedy immunity of Miss. Code Ann. § 71-3-9 where it contracted with a trucking company to cut and haul the timber, making the trucking company the prime contractor, and the trucking company had subcontracted with a company that had hired the driver. Mayberry v. Cottonport Hardwoods, — So. 3d —, 2022 Miss. App. LEXIS 401 (Miss. Ct. App. Nov. 8, 2022).

§ 71-3-17. Compensation for disability.

JUDICIAL DECISIONS

18. Multiple injuries.

Where the employee was working as a coil winder when she tripped over an airhose, fell backward, and injured her head, neck, shoulder, and back, she was treated by numerous physicians and assessed a permanent medical impairment for her cervical and lumbar spine. She was suffered a second injury while lifting eight-gauge wire over her head, and injured both her arms, shoulders, back, and neck. Substantial evidence supported the Mississippi Worker's Compensation Commission's findings of loss of wage-earning and a 38% loss of industrial, entitling her to permanent partial disability benefits. Howard Indus. v. Hayes, — So. 3d —, 2022 Miss. App. LEXIS 373 (Miss. Ct. App. Oct. 11, 2022).

§ 71-3-37. Payment of compensation.

JUDICIAL DECISIONS

1. In general.

Employer was not estopped from asserting intoxication as an affirmative defense in response to an injured employee's petition to controvert by the employer making compensation payments prior to the employee filing his petition to controvert because the employer was unaware of the results of the employee's drug test until the employee subpoenaed records to prepare for the hearing on the petition to controvert and the employer then set out affirmative defenses in its answer to the petition to controvert. Meek v. Cheyenne Steel, Inc., — So. 3d —, 2022 Miss. App. LEXIS 366 (Miss. Ct. App. Oct. 11, 2022).

§ 71-3-59. Costs in proceedings brought without reasonable ground; penalties for pursuit of frivolous claim.

JUDICIAL DECISIONS

2. Sanctions.

Where the employee suffered in 2007 and 2015 at her employer's plant, the substantial evidence supported the Mississippi Worker's Compensation Commission's (MWCC) order affirming a ruling that imposed sanctions and attorney's fees under Miss. Code Ann. § 71-3-59(2) against the employer's attorney for misleading the MWCC and delaying the proceedings by presenting an incorrect job analysis. The Worker's Compensation statutes makes it a crime to present false or misleading evidence in order to withhold benefits, as set forth in Miss. Code Ann. § 71-3-69. Howard Indus. v. Hayes,

— So. 3d —, 2022 Miss. App. LEXIS 373 (Miss. Ct. App. Oct. 11, 2022).

CHAPTER 5.

UNEMPLOYMENT COMPENSATION

ARTICLE 11.

BENEFITS.

§ 71-5-513. Disqualifications [Repealed effective July 1, 2023].

JUDICIAL DECISIONS

5. Leaving employment without good cause.

Denial of unemployment benefits to claimant was supported by substantial evidence that claimant voluntarily left his job when work was available, including, inter alia, that he rejected his supervisor's efforts to accommodate him when he was feeling unwell and did not want to ride in a vehicle with other workers. Mitchell v. Miss. Dep't of Emp. Sec., 348 So. 3d 1030, 2022 Miss. App. LEXIS 357 (Miss. Ct. App. 2022).

Mississippi Department of Employment Security's Board of Review's denial of unemployment benefits was supported by findings that appellant chose not return to work when the employer re-opened following a COVID-19 shut down and appellant's doctor indicated that she was able to work. Patterson v. Miss. Dep't of Empl. Sec., 348 So. 3d 1022, 2022 Miss. App. LEXIS 352 (Miss. Ct. App. 2022).

§ 71-5-531. Court review [Repealed effective July 1, 2023].

JUDICIAL DECISIONS

1. In general.

When an appellate court reviews a trial court's decision to affirm or deny an administrative agency's findings and decisions, the appropriate standard of review is abuse of discretion. The standard for reviewing the findings and decisions of an administrative agency, such as the Mississippi Department of Employment Security, is found in Miss. Code Ann. § 71-5-531. Vector Transp. Co. v. Miss. Dep't of Emp. Sec., — So. 3d —, 2022 Miss. App. LEXIS 391 (Miss. Ct. App. Nov. 1, 2022).

Per Miss. Code Ann. § 71-5-531, an employer met its burden of proof to show that an employee was terminated for misconduct where the only evidence before the ALJ showed that the employee had previously demonstrated the ability to meet the employer's 20-hour work requirements, she then had an extended period of extreme noncompliance after having been given multiple opportunities to comply, and thus, the employee's conduct evinced willful and wanton disregard of the employer's interest. As a result the employee was disqualified from receiving unemployment benefits. Vector Transp. Co. v. Miss. Dep't of Emp. Sec., — So. 3d —, 2022 Miss. App. LEXIS 391 (Miss. Ct. App. Nov. 1, 2022).

TITLE 75.

REGULATION OF TRADE, COMMERCE AND INVESTMENTS

CHAPTER 3.

UNIFORM COMMERCIAL CODE — NEGOTIABLE INSTRUMENTS

PART 1.

GENERAL PROVISIONS AND DEFINITIONS.

§ 75-3-118. Statute of limitations.

JUDICIAL DECISIONS

I. DECISIONS UNDER CURRENT LAW.

2. Applicability.

If the parties familiar with the nuances of the case represented that the general three-year statute of limitations applied, there was no plain error in the circuit court's failure to discern the applicability of the Uniform Commercial Code's statute of limitations for negotiable instruments; a former employee did not not demonstrate that the circuit court deviated from any legal rule or that the outcome of the case was prejudiced. Rhea v. Career Gen. Agency, Inc., — So. 3d —, 2022 Miss. App. LEXIS 451 (Miss. Ct. App. Dec. 6, 2022).

TITLE 83.

INSURANCE

Chapter 41. Hospital and Medical Service Associations and Contracts.....83-41-1

CHAPTER 41.

HOSPITAL AND MEDICAL SERVICE ASSOCIATIONS AND CONTRACTS

Article 9. Patient Protection Act of 1995.....83-41-401

ARTICLE 9.

PATIENT PROTECTION ACT OF 1995.

Sec.
83-41-403. Definitions.

§ 83-41-403. Definitions.

As used in this article:

(a) "Department" means the Mississippi Department of Insurance.

(b) "Managed care plan" means a plan operated by a managed care entity as described in paragraph (c) of this section that provides for the financing and delivery of health care services to persons enrolled in such plan through:

(i) Arrangements with selected providers to furnish health care services;

(ii) Explicit standards for the selection of participating providers;

(iii) Organizational arrangements for ongoing quality assurance, utilization review programs and dispute resolution; and

(iv) Financial incentives for persons enrolled in the plan to use the participating providers, products and procedures provided for by the plan.

(c) "Managed care entity" includes a licensed insurance company, hospital or medical service plan, health maintenance organization (HMO), an employer or employee organization, or a managed care contractor as described in paragraph (d) of this section that operates a managed care plan.

(d) "Managed care contractor" means a person or corporation that:

(i) Establishes, operates or maintains a network of participating providers;

(ii) Conducts or arranges for utilization review activities; and

(iii) Contracts with an insurance company, a hospital or medical service plan, an employer or employee organization, or any other entity providing coverage for health care services to operate a managed care plan.

(e) "Participating provider" means a physician, hospital, pharmacy, pharmacist, dentist, nurse, chiropractor, optometrist, or other provider of health care services licensed or certified by the state, that has entered into an agreement with a managed care entity to provide services, products or supplies to a patient enrolled in a managed care plan.

HISTORY: Laws, 1995, ch. 613, § 37, eff from and after July 1, 1995.

Editor's Note — This section is set out above to correct an error in paragraph (c) as it appeared in the 2022 Replacement Volume 19/19A by substituting "paragraph (d) of this section" for "subparagraph (d)."

TITLE 89.

REAL AND PERSONAL PROPERTY

Chapter 1. Land and Conveyances.....89-1-1

CHAPTER 1.

LAND AND CONVEYANCES

In General.....89-1-1

IN GENERAL

Sec.
89-1-23. Aliens holding land.

§ 89-1-23. Aliens holding land.

Resident aliens may acquire and hold land, and may dispose of it and transmit it by descent, as citizens of the state may. Except as otherwise provided in this section, nonresident aliens shall not hereafter acquire or hold land, but a nonresident alien may have or take a lien on land to secure a debt, and at any sale thereof to enforce payment of the debt may purchase the same, and thereafter hold it, not longer than twenty (20) years, with full power during said time to sell the land, in fee, to a citizen; or he may retain it by becoming a citizen within that time. All land held or acquired contrary to this section shall escheat to the state; but a title to real estate in the name of a citizen of the United States, or a person who has declared his intention of becoming a citizen, whether resident or nonresident, if he be a purchaser or holder, shall not be forfeited or escheated by reason of the alienage of any former owner or other person.

Any person who was or is a citizen of the United States and became or becomes an alien by reason of marriage to a citizen of a foreign country, may hereafter inherit, or if he or she heretofore inherited or acquired or hereafter inherits, may hold, own, transmit by descent or transfer land free from any escheat to the State of Mississippi, if said land has not heretofore escheated by final valid order or decree of a court of competent jurisdiction.

Nonresident aliens who are citizens of Syria or the Lebanese Republic may inherit property from citizens or residents of the State of Mississippi.

Nonresident aliens may acquire and hold not to exceed three hundred twenty (320) acres of land in this state for the purpose of industrial development thereon. In addition, any nonresident alien may acquire and hold not to exceed five (5) acres of land for residential purposes. The nonresident alien may dispose of any such land, but if any land acquired for industrial development ceases to be used for industrial development while owned by a nonresident alien, it shall escheat to the state. The limitation set forth in this paragraph shall not apply to corporations in which the stock thereof is

partially or wholly owned by nonresident aliens; and title to real estate acquired by, and held in the name of, any corporation, limited partnership, general partnership, limited liability partnership, limited liability company, joint venture, joint stock company or business trust organized and existing under the laws of the State of Mississippi or of any other state or the federal laws of the United States of America for purposes of development thereon of one or more projects, as defined in Section 57-75-5(f)(xxxi), shall not be forfeited or escheated by reason of the alienage of any former owner or other person if said land has not heretofore escheated to the State of Mississippi by final valid order or decree of a court of competent jurisdiction.

HISTORY: Codes, 1892, § 2439; 1906, § 2768; Hemingway's 1917, § 2272; 1930, § 2121; 1942, § 842; Laws, 1924, ch. 165; Laws, 1938, ch. 354; Laws, 1940, ch. 237; Laws, 1988, ch. 439, § 2, eff from and after passage (approved April 25, 1988); Laws, 2022, 1st Ex. Sess. ch. 1, § 14, eff from and after passage (approved November 17, 2022).

Amendment Notes — The 2022 1st Extraordinary Session amendment, effective November 17, 2022, in the last paragraph, added "and title to real estate acquired by...final valid order or decree of a court of competent jurisdiction" at the end.

CHAPTER 8.

RESIDENTIAL LANDLORD AND TENANT ACT

§ 89-8-23. Duties of landlord.

JUDICIAL DECISIONS

1. In general.

County court erred by not setting aside a default judgment against a landlord because the landlord did assert a number of colorable defenses to the merits of a tenant's claim under the Residential Landlord and Tenant Act, which could defeat those claims; the landlord made repeated assertions at the hearing that the tenant was responsible for much of the damage shown by the pictures she submitted. Gordon v. Dickerson, — So. 3d —, 2022 Miss. LEXIS 242 (Miss. Sept. 29, 2022).

TITLE 93.

DOMESTIC RELATIONS

CHAPTER 5.

DIVORCE AND ALIMONY

§ 93-5-1. Causes for divorce.

JUDICIAL DECISIONS

ANALYSIS

3. Adultery.
4. —Evidence.
10. Cruel and inhuman treatment.
15. —Particular circumstances as constituting.

3. Adultery.

4. —Evidence.

Chancery court did not err by denying the wife a divorce on the ground of adultery because testimony from both parties established that the husband's admitted affair from 2006 was condoned by the wife and they received marital counseling and resumed the marriage for 12 additional years. Baughman v. Baughman, — So. 3d —, 2022 Miss. App. LEXIS 400 (Miss. Ct. App. Nov. 1, 2022).

10. Cruel and inhuman treatment.

15. —Particular circumstances as constituting.

Chancery court erred when it failed to grant the wife a divorce on the ground of habitual cruel and inhuman treatment because it failed to analyze the claim from the wife's perspective and she produced evidence of property damage, the husband threatening her with revenge porn, a forced sexual encounter, and her counseling records showed over a decade of references to marital abuse, rage, or marital violence. Baughman v. Baughman, — So. 3d —, 2022 Miss. App. LEXIS 400 (Miss. Ct. App. Nov. 1, 2022).

§ 93-5-23. Custody of children; alimony; effect of military duty on custody and visitation.

JUDICIAL DECISIONS

ANALYSIS

V. MODIFICATION OF DECREE.

50. Practice and procedure.

VII. OTHER MATTERS.

64. Attorney fees; generally.

V. MODIFICATION OF DECREE.

50. Practice and procedure.

Chancery court manifestly erred by modifying custody based on the finding of an adverse effect on the child because there was no credible evidence showing how the mother's knowledge of her new husband's undocumented status or her decision to provide him a home harmed the child's emotional well-being. Without evidence in the record of a pattern of conduct that harmed the child's emotional or mental well-being, the chancery court did not have facts in the record to support a modification of child custody. Blagodirova v. Schrock, — So. 3d —, 2022 Miss. App. LEXIS 399 (Miss. Ct. App. Nov. 1, 2022).

VII. OTHER MATTERS.

64. Attorney fees; generally.

Chancery court did not abuse its discretion in denying the mother's motion for attorney's fees because, although the guardian ad litem, concluded that the incidents in question did not rise to the level of abuse and neglect, she did not find that the allegations were frivolous. Blagodirova v. Schrock, — So. 3d —, 2022 Miss. App. LEXIS 399 (Miss. Ct. App. Nov. 1, 2022).

§ 93-5-24. Types of custody awarded by court; joint custody; no presumption in favor of maternal custody; access to information pertaining to child by noncustodial parent; restrictions on custody by parent with history of perpetrating family violence; rebuttable presumption that such custody is not in the best interest of the child; factors in reaching determinations; visitation orders.

JUDICIAL DECISIONS

10. Joint custody.

Considering the specific language used in the Agreed Order on Custody, the parents were awarded joint legal custody and joint physical custody, and the chancellor erred by interpreting the September 9, 2019 Agreed Order on Custody to award sole physical custody to the mother; this error resulted in the chancery court applying an incorrect legal standard in its decisions regarding the modification of custody as requested by both parties, the changes in periods of custody or visitation, and in the award of child support, and these issues must be remanded for the chancery court's reconsideration. Lamy v. Lamy, — So. 3d —, 2022 Miss. App. LEXIS 436 (Miss. Ct. App. Nov. 29, 2022).

CHAPTER 15.

MISSISSIPPI TERMINATION OF PARENTAL RIGHTS LAW

§ 93-15-119. Involuntary termination in chancery court for reasons of abandonment, desertion, or parental unfitness to raise the child; standard of proof.

JUDICIAL DECISIONS

I. Under Current Law.

1. Mental unfitness.

Termination of the father's parental rights was supported by the evidence because clear and convincing evidence showed that an established pattern of behavior made the father unable or unwilling to provide an adequate permanent home for the child. The social worker testified that the father did not understand the seriousness or the importance of having suitable housing and reliable transportation, nor did he have the ability to meet the basic needs of his children on a consistent basis. C.P. v. Lowndes Cnty. Dep't of Child Prot. Servs., — So. 3d —, 2022 Miss. App. LEXIS 383 (Miss. Ct. App. Oct. 25, 2022).

§ 93-15-121. Grounds for termination.

JUDICIAL DECISIONS

I. Under Current Law.

II. Under Former Law.

38. Failure to eliminate behaviors.

Termination of the father's parental rights was supported by the evidence because clear and convincing evidence showed that an established pattern of behavior made the father unable or unwilling to provide an adequate permanent home for the child. The social worker testified that the father did not understand the seriousness or the importance of having suitable housing and reliable transportation, nor did he have the ability to meet the basic needs of his children on a consistent basis. C.P. v. Lowndes Cnty. Dep't of Child Prot. Servs., — So. 3d —, 2022 Miss. App. LEXIS 383 (Miss. Ct. App. Oct. 25, 2022).

CHAPTER 19.

REMOVAL OF DISABILITY OF MINORITY

§ 93-19-13. Persons eighteen years of age or older competent to contract in matters affecting personal property and for the purpose of investing in publicly traded equities; certain persons at least eighteen years of age competent to lease real property for use as residence.

JUDICIAL DECISIONS

1. In general.

Former employer was not entitled to a TRO based on a former employee's violation of a noncompetition contract because the contract was unenforceable under Miss. Code Ann. § 1-3-27 as the employee was a minor, and the contract did not fall under this provision as it affected the employee's right to work, not her personal property. Watercolor Salon LLC v. Hixon, — So. 3d —, 2022 Miss. LEXIS 302 (Miss. Dec. 1, 2022).

TITLE 97.

CRIMES

CHAPTER 1.

CONSPIRACY, ACCESSORIES AND ATTEMPTS

§ 97-1-7. Attempt to commit offense; punishment.

JUDICIAL DECISIONS

3. Particular offenses.

7. —Homicide.

Circuit court did not err in denying defendant's motion for a judgment notwithstanding the verdict because there was sufficient evidence for a rational juror to have found beyond a reasonable doubt that defendant committed first-degree murder, two counts of attempted murder, and possession of a firearm by a felon. The witness's testimony as to her identification of defendant was certain and consistent, she gave two statements to the police identifying defendant as one of the shooters and, at trial, she again identified defendant as a shooter. Price v. State, — So. 3d —, 2022 Miss. App. LEXIS 385 (Miss. Ct. App. Oct. 25, 2022).

Circuit court did not err in denying defendant's motion for a judgment notwithstanding the verdict because there was sufficient evidence for a rational juror to have found beyond a reasonable doubt that defendant committed first-degree murder, two counts of attempted murder, and possession of a firearm by a felon. The witness's testimony as to her identification of defendant was certain and consistent, she gave two statements to the police identifying defendant as one of the shooters and, at trial, she again identified defendant as a shooter. Price v. State, — So. 3d —, 2022 Miss. App. LEXIS 385 (Miss. Ct. App. Oct. 25, 2022).

CHAPTER 3.

CRIMES AGAINST THE PERSON

§ 97-3-7. Simple assault; aggravated assault; simple domestic violence; simple domestic violence third; aggravated domestic violence; aggravated domestic violence third.

JUDICIAL DECISIONS

13. Evidence; generally.

18. — Sufficiency.

Jury heard the conflicting evidence and rejected defendant's self-defense claim; the inconsistencies in testimony were not so great as to make the story implausible and did not equate to a verdict that was against the overwhelming weight of the evidence. Moore v. State, 348 So. 3d 322, 2022 Miss. LEXIS 244 (Miss. 2022).

Evidence was more than sufficient for rational jurors to find defendant guilty beyond a reasonable doubt, as the victim consistently identified defendant as her shooter, the victim's daughter's testimony

corroborated her identification, and there was nothing implausible or unbelievable about their testimony. Williams v. State, — So. 3d —, 2022 Miss. App. LEXIS 412 (Miss. Ct. App. Nov. 15, 2022).

§ 97-3-35. Homicide; killing without malice in the heat of passion.

JUDICIAL DECISIONS

10. Instructions; generally.

11. — Warrantableness of manslaughter instructions.

Trial judge did not err in defendant's first-degree murder trial for the shooting and killing of defendant's paramour by refusing to instruct the jury on the lesser offense of heat-of-passion manslaughter because no evidence suggested that defendant killed the victim in the heat of passion or as a result of any sudden and sufficient provocation. Maye v. State, — So. 3d —, 2022 Miss. App. LEXIS 382 (Miss. Ct. App. Oct. 25, 2022).

§ 97-3-47. Homicide; all other killings.

JUDICIAL DECISIONS

5. Negligent operation of vehicle on highway; generally.

7. —Culpable negligence not found or supported.

Trial court did not err in refusing defendant's request for a culpable negligence manslaughter jury instruction in his second-degree murder trial because no evidence indicated that defendant was negligent for stabbing the victim eight times and hitting him on the head with a beer bottle. There simply was no evidence in the record that the marijuana he ingested caused him to stab a man eight times. Edwards v. State, — So. 3d —, 2022 Miss. App. LEXIS 351 (Miss. Ct. App. Sept. 27, 2022).

CHAPTER 5.

OFFENSES AFFECTING CHILDREN

§ 97-5-33. Exploitation of children; prohibitions.

JUDICIAL DECISIONS

1. In general.

There was a factual basis for petitioner's guilty plea because the indictment alleged that he possessed child pornography, it was clear that the notebook computer's hard drive was the hard drive where the child pornography was found, and petitioner admitted to the crime at his plea hearing. Wallace v. State, — So. 3d —, 2022 Miss. App. LEXIS 396 (Miss. Ct. App. Nov. 1, 2022).

Indictment against petitioner was sufficient because it specified the date that the children in the visual depictions were under 18 years old and that the images depicted children engaging in sexually explicit conduct. The victims' names and genders, a description of the actual explicit conduct that was depicted, and the precise time when the offense was alleged to have been committed were not required under this section. Wallace v. State, — So. 3d —, 2022 Miss. App. LEXIS 396 (Miss. Ct. App. Nov. 1, 2022).

CHAPTER 9.

OFFENSES AFFECTING ADMINISTRATION OF JUSTICE

ARTICLE 3.

OBSTRUCTION OF JUSTICE.

§ 97-9-125. Tampering with physical evidence.

JUDICIAL DECISIONS

3. Sufficient evidence

Defendant's convictions of second-degree murder and tampering with evidence were supported by the evidence; although a doctor acknowledged that suicide could have been possible, she also testified that she did not believe it was probable, plus the victim's car was found in defendant's car, her burned remains were found in a burn pit and a bucket in a shed on defendant's property, and he admitted to burning her body and placing her bones there. Bowman v. State, — So. 3d —, 2022 Miss. App. LEXIS 395 (Miss. Ct. App. Nov. 1, 2022).

CHAPTER 17.

CRIMES AGAINST PROPERTY

IN GENERAL

§ 97-17-23. Burglary; breaking and entering inhabited dwelling; home invasion.

JUDICIAL DECISIONS

2. Sufficiency of evidence.

Both witnesses confirmed defendant's actions on the day of the burglary, and a rational juror could find that the State proved defendant's identification beyond a reasonable doubt as the perpetrator of the burglary of the victim's residence; the jury was entitled to believe the homeowners' testimony that their side door had been locked until the alleged burglary, and a breaking and entering occurred at the victim's residence, and there was sufficient evidence that defendant committed the breaking and entering. Holder v. State, 348 So. 3d 370, 2022 Miss. App. LEXIS 359 (Miss. Ct. App. 2022).

§ 97-17-33. Burglary; breaking and entering building other than dwelling; railroad car; vessels; automobiles.

JUDICIAL DECISIONS

17. Conviction.

Defendant's conviction of burglary of a business was not against the overwhelming weight of the evidence because the defendant had in his possession a refill bottle from the pharmacy, an officer testified that the individual in a surveillance video near the pharmacy at the time of the robbery was defendant, the jury was shown the surveillance footage and defendant's arrest photo, and the State introduced the red and black bag found in defendant's home, similar to the bag the suspect in the surveillance video was carrying. Owens v. State, — So. 3d —, 2022 Miss. App. LEXIS 442 (Miss. Ct. App. Dec. 6, 2022).

§ 97-17-71.1. Registration by scrap metal dealers with office of Secretary of State required; false or misleading statements prohibited; penalties for violations; enforcement.

Editor's Notes — This section's heading is set out above to correct a punctuation error in the heading.

CHAPTER 37.

WEAPONS AND EXPLOSIVES

GENERAL PROVISIONS

§ 97-37-5. Unlawful for convicted felon to possess any firearms, or other weapons or devices; penalties; exceptions.

JUDICIAL DECISIONS

9. Sufficient evidence.

Evidence was more than sufficient for rational jurors to find defendant guilty beyond a reasonable doubt, as the victim consistently identified defendant as her shooter, the victim's daughter's testimony corroborated her identification, and there was nothing implausible or unbelievable about their testimony. Williams v. State, — So. 3d —, 2022 Miss. App. LEXIS 412 (Miss. Ct. App. Nov. 15, 2022).

§ 97-37-29. Shooting into dwelling house.

JUDICIAL DECISIONS

3. Evidence.

Evidence was more than sufficient for rational jurors to find defendant guilty beyond a reasonable doubt, as the victim consistently identified defendant as her shooter, the victim's daughter's testimony corroborated her identification, and there was nothing implausible or unbelievable about their testimony. Williams v. State, — So. 3d —, 2022 Miss. App. LEXIS 412 (Miss. Ct. App. Nov. 15, 2022).

CHAPTER 45.

COMPUTER CRIMES AND IDENTITY THEFT

§ 97-45-17. Posting of messages through electronic media for purpose of causing injury to any person; penalties.

JUDICIAL DECISIONS

1. Constitutionality.

Miss. Code Ann. § 97-45-17 violated the First Amendment because it was unconstitutionally overbroad. Specifically, the statute purported to criminalize any communication, whether true or untrue, that was intended to cause injury to any person, and since it did not define injury, the statute thus criminalized a substantial amount of protected speech, such as core political speech, speech about public figures, and offensive parodies. Edwards v. State, 294 So. 3d 671, 2020 Miss. App. LEXIS 117 (Miss. Ct. App. 2020).

TITLE 99.

CRIMINAL PROCEDURE

CHAPTER 17.

TRIAL

§ 99-17-9. Trial in the absence of accused.

JUDICIAL DECISIONS

2. Presence of defendant waived.

In a case in which defendant was tried in absentia and convicted of possession of methamphetamine, the trial court did not abuse its discretion in denying defendant's request for a continuance after concluding that he waived his right to be present at trial because he was arraigned and appeared before an open court; the trial court notified him of his October 8, 2020, trial date; he was released on bail one day before trial; the trial court was permitted to find that defendant's absence was voluntary; and defendant did not assert at trial or on appeal any reason for failing to appear. Blount v. State, — So. 3d —, 2022 Miss. App. LEXIS 402 (Miss. Ct. App. Nov. 8, 2022).

CHAPTER 19.

JUDGMENT, SENTENCE, AND EXECUTION

SENTENCING OF HABITUAL CRIMINALS

§ 99-19-81. Sentencing of habitual criminals to maximum term of imprisonment.

JUDICIAL DECISIONS

ANALYSIS

3. Sufficiency of prior sentences, generally.
14. Amendment of indictment.
16. Proof of prior conviction or sentence.

3. Sufficiency of prior sentences, generally.

Defendant knowingly, intelligently, and voluntarily pleaded guilty to burglary of a dwelling, kidnapping, taking a motor vehicle, possession of a weapon by a felon, and two counts of credit card fraud; defendant understood he was pleading guilty pursuant to the day-for-day habitual-offender enhancement under the statute, and he failed to meet his burden to establish the involuntariness of his guilty plea. Wess v. State, 348 So. 3d 333, 2022 Miss. App. LEXIS 334 (Miss. Ct. App. 2022).

14. Amendment of indictment.

Defendant's indictment was properly amended at his guilty-plea hearing to change the habitual-offender enhancement to the day-for-day habitual-offender enhancement, and he made no defective indictment argument with respect to the amended indictment; the requisite information about defendant's prior felony convictions was clearly delineated in the indictment and defendant failed to even assert, must less prove, a defective-indictment fundamental-rights exception to the applicable three-year limitations period and the claim was time-barred. Wess v.

State, 348 So. 3d 333, 2022 Miss. App. LEXIS 334 (Miss. Ct. App. 2022).

16. Proof of prior conviction or sentence.

Defendant failed to establish an exception to the post-conviction relief time-bar based on the State's alleged failure to prove that he was a habitual offender because defendant admitted to prior criminal convictions as part of a guilty plea, and those admissions were sufficient to permit a finding of habitual status. Parker v. State, — So. 3d —, 2022 Miss. App. LEXIS 420 (Miss. Ct. App. Nov. 22, 2022).

§ 99-19-83. Sentencing of habitual criminals to life imprisonment.

JUDICIAL DECISIONS

11. Habitual offender portion of indictment.

Defendant's indictment was properly amended at his guilty-plea hearing to change the habitual-offender enhancement to the day-for-day habitual-offender enhancement, and he made no defective indictment argument with respect to the amended indictment; the requisite information about defendant's prior felony convictions was clearly delineated in the indictment and defendant failed to even assert, must less prove, a defective-indictment fundamental-rights exception to the applicable three-year limitations period and the claim was time-barred. Wess v. State, 348 So. 3d 333, 2022 Miss. App. LEXIS 334 (Miss. Ct. App. 2022).

SEPARATE SENTENCING PROCEEDING TO DETERMINE PUNISHMENT IN CAPITAL CASES

§ 99-19-101. Jury to determine punishment in capital cases in separate sentencing proceeding; aggravating and mitigating circumstances to be considered.

JUDICIAL DECISIONS

I. UNDER CURRENT LAW.

3. Jury determination.

Court did not err in denying defendant's request to be resentenced; while he claimed that he should have been resentenced by a jury pursuant to Miss. Code Ann. § 99-19-101(1) because he was convicted of capital murder, he was not entitled to a jury at his post-conviction Miller hearing. Dampier v. State, — So. 3d —, 2022 Miss. App. LEXIS 358 (Miss. Ct. App. Oct. 4, 2022).

CHAPTER 35.

APPEALS

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APPEALS TO SUPREME COURT AND RELATED PROCEDURES.

§ 99-35-103. When state or municipality may appeal.

JUDICIAL DECISIONS

4. Appeal on question of law.

Subsection (b) did not authorize the State's appeal of an order granting defendant's motion for directed verdict because the issues did not present the court of appeals with a pure question of law; the circuit court granted defendant's motion for directed verdict because the State failed to present sufficient factual evidence to sustain a burglary of a dwelling conviction, and it heavily relied on the unique facts presented to reach its ruling. State v. Hudson, — So. 3d —, 2022 Miss. App. LEXIS 445 (Miss. Ct. App. Dec. 6, 2022).

CHAPTER 39.

POST-CONVICTION PROCEEDINGS

ARTICLE 1.

MISSISSIPPI UNIFORM POST-CONVICTION COLLATERAL RELIEF ACT.

§ 99-39-5. Grounds for relief; time limitations; "biological evidence" defined.

JUDICIAL DECISIONS

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5. Ineffective assistance of counsel.
11. Timeliness.

5. Ineffective assistance of counsel.

Because the Uniform Post-Conviction Collateral Relief Act statute expressly addressed DNA testing, defendant's claim that trial counsel was ineffective because he failed to request further DNA testing was more appropriately brought during post-conviction proceedings. Carnley v. State, 348 So. 3d 1071, 2022 Miss. App. LEXIS 362 (Miss. Ct. App. 2022).

11. Timeliness.

Defendant's indictment was properly amended at his guilty-plea hearing to change the habitual-offender enhancement to the day-for-day habitual-offender enhancement, and he made no defective indictment argument with respect to the amended indictment; the requisite information about defendant's prior felony convictions was clearly delineated in the indictment and defendant failed to even assert, must less prove, a defective-indictment fundamental-rights exception to the applicable three-year limitations period and the claim was time-barred. Wess v.

State, 348 So. 3d 333, 2022 Miss. App. LEXIS 334 (Miss. Ct. App. 2022).

Circuit court did not err in denying defendant's untimely post-conviction relief motion because he did not meet an exception to the time-bar. His illegal-sentence claim based upon an alleged failure of proof that he was a habitual offender lacked merit because he admitted to prior criminal convictions as part of a guilty plea, and his claim that the trial court erred by failing to consider actuarial tables before sentencing him to was essentially a life sentence was waived and lacked merit. Parker v. State, — So. 3d —, 2022 Miss. App. LEXIS 420 (Miss. Ct. App. Nov. 22, 2022).

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Corporation franchise tax, §27-13-7.
Income tax credits for industries certified by major economic impact authority, §27-7-22.45.
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